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Supreme Court, U.S.
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IN THE SUPREME COURT OF THE
UNITED STATES
October term 2000

EUGENE JONESON-PETITIONER
VS.
THE PEOPLE OF THE STATE OF
ILLINOIS

IN THE INTEREST OF
LUELLA JONESON

On Petition For Writ of Certiorari to the United States Court For the 1st District of Illinois

PETITION FOR WRIT OF CERTIORARI OF EUGENE HERMAN JONESON APPENDIX G

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Date August 8th, 2001

95 pp

IN THE INTEREST	)
OF:	)**Appeal from The Circuit**
LUELLA JONESON	) **Court of Cook County**
No 94JA1107	)
Minor-Respondent	)
Appellee	)
	) **Appellate No. 98-3336**
PEOPLE OF THE	)
STATE OF ILLINOIS	)
Petitioner-Appellee	)
V.	)
	)
EUGENE JONESON	) **Mary Mulhern,**
Respondent-Appellant	) **Judge Residing.**

Brief for Leave to File Notice to Appeal

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"Appendix G"

ISSUES PRESENTED FOR REVIEW

Issues presented for review

1. The trial court's December 2nd unfitness determination terminating parental rights on the failure to make reasonable progress was not clear and convincing and against the manifest weight of the evidence.

There was no clear and convincing evidence that Eugene Joneson was unable to discharge his parental responsibilities due to failure to make reasonable progress in the return of Luella Joneson.

A. The original charges why case came into care because of risk of harm due to mental illness were dismissed and never considered as an issue in the trial. This should be considered reasonable progress in itself.

B/ Evidence indicating that Department of Children and Family Services files only contained information that they wanted to present to the court was ignored and admonished. This included all appeal letters written to the Ombuds office for ACR case reviews.

C. Caseworker reports were inaccurate, included only information that would not benefit Mr. Joneson

V. Caseworkers were not trained in the basics of parenting skills but rather relied upon their natural abilities and their sociology degrees (oriented around the macro of social work instead of the individual) to determine how Luella Joneson's case should be handled.

E. Input at ACR was bias and swayed toward

the testimony and recommendations of the caseworkers only.

f. Caseworkers Services and help provided to father was non-existent unless father was to determine the services needed and than request them.

G. Father did make reasonable progress from the day the case came into care from the day the petition for adoption was passed

Several due process violations occurred which could result in a retrial or a reversal . A. A continuation should have been allowed for Attorney Wilson to further investigate this case. Especially due to the enormous amount of information that had to be sifted through because of relevant information that was available from older sister's from being in care at the same time. B. A parenting assessment was used as the basis for terminating parent rights even though it was represented as a tool to indicate areas for improvement of parenting skills so a parent might get their children back and expressively stated that they do not make decisions about custody. It was fraudulently represented to the defendant. C. Improper evidence and here say statements, (indicated the striking of a two year old and the feeding of adult cornflakes to an infant) was used. Also improper argument (not born with the ability to parent, Luella is not bonded to her father) and erroneous rulings (father failed to accept his role in the abandonment of Luella when she was never abandoned. The older sibling sisters were playing in the lake) and judgements based on law and evidence that were incorrectly used and relied upon in final judgement (post

trial motions indicating perjury on caseworkers part with regards to services offered and non-existent efforts to provide services were entirely ignored)
d. The trial Judge was biased and in favor of the State of Illinois and the assessment team it employed.

It is not on the Best Interests of Luella Joneson to be adopted. It was not clear and convincing that it was in Luella' best interest to be adopted..

Several biases existed that could result in reversal or new trial.

A. the trial court was bias in not allowing a continuance for the Best interest Hearing. Especially since many of the witnesses motioned for were not available for the court upon the hearing date. The trail court essentially decided wether the witnesses were important or not. Other witnesses were denied in am motion for discovery on the same day.

B. The trial court did not consider any familial background such as nationality, race, religion or culture as important to Luella's best interest.

C. Trial court Judge would not permit any questioning with regards to the prospective adoptive parents parenting ability.

D. The trial court abused its discretion during the post trial motion for the best interest hearing by refusing to hear any additional testimony of why it was in the best interest of Luella to vacate the termination order so she could be returned home to her father. Especially since the witness was in court and represented substantial new evidence.

E. The only witness used, Christine Foley, although she had witnessed visits was unfamiliar with the case background. Julie Yalowitz, Luella's caseworker for two years was unavailable for questioning..

F. New substantial evidence indicates Christine Foley's testimony is bias as she has perjured herself in representation of the older sibling sisters.

G. New substantial evidence indicates that the caseworkers were prejudice with regards to adoption. The reasons for no daddy Gene were closely related to the cutting down of visitation with Luella from one week to one month. (The entering of the report was also closely associated with the time period that the defendant had written a letter to the supervisor of the caseworker Julie Yalowitz complaining she was not doing her job with regards to visits.)

E. No one from the parenting assessment team was available for questioning at the best interests hearing because no one had been made available at the hearing. Objections to evidence presented was overruled because the evidence had been presented earlier at the unfitness trial.

IT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE THAT THE FATHER OF LUELLA JONESON DID NOT MAKE REASONABLE PROGRESS FOR HER RETURN HOME

A. Substantial evidence was produced that there was not a mental illness of the defendant and that the appellant was not a danger to his daughter, himself or anyone else. Father completed mental illness therapy and was given the ok. Also attended his AA meetings and

parenting skills classes. Father also provided new substantial evidence from a family therapist that he was able to relate to children.

B. Luella affectionately referred to her farther as Daddy Gene.

C. Father had baptized his daughter Luella at the church of his faith. Programs are available for her healthy 'Christian growth. Father has also provided letters and financial aid if needed for his daughter Luella. Caseworkers consider his gift giving in many situations.

D. Father has constantly maintained contact with his younger daughter although thwarted by the agency's efforts and the foster parents cooperation with CC's suggestions of not to reply through letters.

E. Father has offered a plan for relocation to Luella's neighborhood if need be for a successful return home adjustment.

F. Luella's daily life routine would not be drastically changed. Even with two parents she has been in day care most of her life. Defendant would provide in home sitter services which could be considered an improvement.

G. Father has full support for return of his daughter through his birth and adoptive mother, church involvement, A.A. sponsorship and a single parent group he attends occasionally.

J JURISDICTIONAL STATEMENT

This is an appeal from a final Circuit Court of Cook c County judgments entered on December 2nd, 1997

finding the defendant Eugene Joneson. Unfit and the termination of parental rights on April 7th, 1997. A timely post trial motion for the unfitness hearing was filed on December 31, 1997, continued to January 26th, heard on February; 19th, 1998 with several other amendments. (Vol 1 of 2 C 208) A timely notice of Appeal was filed on February 23rd but dismissed at fathers request so as to appeal both hearings of unfitness and termination together. On April 7th, the best Interests hearing was held and fathers parental rights were terminated. Several motions presented that day from 1.the dismissal of current attorney 2.,a continuance, 3. The duplication of DCFS files for fathers evidence 4. a motion to dismiss the best interest hearing (a continuance. a motion for discovery, 5. A motion for final and additional amendments 6. A motion to have therapist at visits and 7 A motion for letters to be allowed to be written to his girls without being opened by caseworker were denied that day also. (Vol 1 of 2, C 213-220,222) (SR 1 of 2, C 20-188)

On June 22nd, a timely filed post trial motion was continued til August 6th. 1998. Several amendments were added during that time period. These included motions to add missed documentation or supplement (Vol 1 of 2, C 221,225) (SR 1 of 2, C 189-225,226) Also for the return of visitation for daughter and defendant (SR 1 of 2, C 246) All motions were denied.

A timely notice of appeal was filed on September 4th, 1998.

The appellate court granted two extensions of time to file the record of appeal, which was completed on March

5th, 1999. One extension of time for filing brief was motioned

Pursuant to Supreme Court Rule 303 this court has jurisdiction over this appeal of judgement entered by the Circuit Court of Cook County, Illinois, Child Protection Division, in a civil case.

POINTS AND AUTHORITIES

Statement of facts

On January 30th, 19994, Luella Joneson was born to Frances O'Nell and Eugene Joneson. On February 8th, Mr. Joneson went to trial court for a hearing about his older daughters who were in foster care. At this time he told the caseworker from DCFS, Willa Henning that Luella had been born. He than wrote her a note asking for help or services from their department(Sr 1 of 2, 1/8/99 C 137, 140 Post trial motion to vacate) That same day she went to the apartment and inspected for any existing abuse or neglect. None was found.

The next day a follow-up investigator went to the apartment while Mr. Joneson was at work. The mother of the children Frances O'Neill would not let him in stating she did not know who he was. She threatened to kill him if he tried to take the baby. The investigator, Juan Michelle than went and called the police (Vol 1 of 6, R 106). They entered the apartment and took the baby because 1. The mother was not on medication prescribed by an earlier evaluation and 2. She could not find the medical records kept about the baby. And 3

The parents were suspected of being mentally ill.

In the intake report, Mr. Joneson denied any knowledge that the mother was diagnosed as a paranoid schizoid and also believed that she suffered from sever post-partum depression and that if she was taking medication she stopped because she was having a reaction to it and that it was not good for the baby's health (Trial Exhibits 1 of 9, Intake data people's group exhibit A. TE 20, 25, 26 Child abuse/ neglect investigation Review notes). This was also confirmed by a letter written by Mr. Joneson to Willa Henning in court when he asked for DCFS help with the mother of his children (Sr 1 of 2. C 137 - 140)

The defendant also denied knowing about any court order saying he was not to be living with the mother of this children at that time. He was aware that the agency had recommended that he did not live with the mother of his children due to her uncooperativeness with them and this had been mentioned in court, but no court order was ever made with regards to this issue. It was finally agreed upon as a service objective in the ACR plan of 11/7/04 by the appellant father that he would no longer have contact with the mother of the children. This was ten months after Luella was born as the mother of Luella was no longer cooperating in services or visitation with father. (Vol 6 of 9, T E 100.GAl Ex 1 a)

An investigation letter about the 1994 incident reported indicated suspected child abuse or neglect but Mr. Joneson was not named as the person responsible for the child abuse or neglect (Sr 1 of 22, C 141).

When Luella Joneson's case came into care on February 22nd. 1994.the temporary custody order specifically stated that the parents of this minor are mentally ill and unable to care for this minor. (Sr 1 pf 2. C 74 & Vol 1 of 2. C 10-11) On May 23rd of 1995 DCFS and Catholic Charities had met and decided what services were to be offered for Mr., Joneson for the return of his children (TE Vol 4 of 9, Te 140- 147). The defendant, in order to get his children back would have to get: 1.. A neurological psychological evaluation 1 2. A physical neurological evaluation and 3. Attendance on a weekly basis to a referred psychologist or psychiatrist. All of these issues concerned mental illness and Mr. Joneson accomplished all of the above tasks with positive results. Christopher Randolph from Northwestern University indicated there were no neuropsychological abnormalities (Vol 6 of 9, Te 206) The report from Doctor J. Anderson from the University; of Illinois recommended that no further neurological studies be made at this time (Vol 6 of 9, Te 200)

On July 26th , 1995 Tod Harrison the selected LCSW to provide the therapy for Mr. Joneson met with Julie Linkon (married to Yalowitz) and Pam Palmentera along with his attorney's from the public defender's office and discussed the counseling goals for the return of the children (Vol of 8 of 0, Father's Exhibit # 9 TE 110) These included issues of why the case came into care, auditory hallucinations, parenting disabilities, what could be done for the return of the children, feelings about case management issues and to follow all

recommendations of the Community Counseling Center of Chicago. This was confirmed as having been accomplished and was stated in Tod Harrison's letter of 10/27/95 as to details of treatment.

Doctor Childers, a psychiatrist from Chicago Community Counseling Center) reported Mr. Joneson as not to be suffering from any auditory hallucinations.(Vol 8 of 9, trial exhibits 137). This was confirmed in the caseworker report date of plan 10/26/05 (Vol 1 of 9 People's group B 4, pg 3) Eventually the above mentioned therapy by Tod Harrison resulted in including over 60 sessions with therapist Tod Had Harrison. This therapy also met the requirements of psychologists, Katherine Wilson, who in her testimony at trial recommended intensive therapy so Mr. Joneson would meet the parenting requirements for the return of his children possibly within a year (Vo.1 of 6, R 71 ln 23- R 72 ln 7). Mr. Harrison concluded and stated in his letter on March 24th. 1887 to whom it may concern (Father's Exhibit #11 (Vol 8 of 9, Te 113, 126) and on July 15th, 1997 to Steve Plotkin, (Sr 1 of 2, C 91 -93) Mr. Joneson's attorney representing him on Luella's older sibling sister's supreme court appeal, that after 60 sessions he did not see Mr. Joneson as having a severe personality disorder (Sr 1 of 2, C 91)

The above results refuted previous psychologicals by Doctor Joffe (1969 & 1991). Dr. Tepas (1969), Doctor Reebe (1/20/94) and Katherine Wilson (7/7/94) in earlier evaluations. On Doctor Joffe's evaluations of 8/11/89 and 12/06/ 91 (Vol 7 of 9, Te 100-107 & 116-121) he summarized in conclusion for

1989 that 1. Mr. Joneson fails to perceive reality with any degree of accuracy at these times and likely self-medicates with alcohol, the use of which can be under tenuous control at best. Unfortunately, past treatment has focused on Mr. Joneson's alcohol abuse which is not primary but rather symptomatic of far mor serious difficulties. Mr. Joneson must first learn to manage his own affairs with some degree of competence and is not likely to do so without intensive psychiatric intervention. In Joffe's 1991 evaluation he concluded 1. Mr. Joneson stated that he had two past A.A. sponsors but that neither of these had continued, that both sponsors required a greater commitment from him than he was willing to give and that he did not wish to organize his life around AA attendance. He wanted to live a more normal life(Vol 7 of 9, TE 117) It seems unlikely that Mr. Joneson will obtain even restricted deriving privileges with his present level of involvement in AA or other forms of treatment. It remains unlikely that his driving privileges will be restored given his expressed attitudes in this regard and the examiner is hard pressed to believe that Mr. Joneson can appropriately care for his children when he continues to experience such difficulties in negotiating his own affairs. It is also that Mr. Joneson has mismanaged his finances and has raised questions concerning his overall level of financial responsibility. His knowledge of his children remains quite limited and his ability to profit from specific instruction in this regard also remains suspect (Vol 7 of 9, Te 120) 2. There was no apparent evidence of psychotic functioning at this time. (Vol 7 of (, TE 119)

But Mr. Joneson also received his drivers license back in 1994 (Vol 3 of 9.,TE 27)

In Doctor Tepas's evaluation done on 9/14/89 (Vol 7 of 9. Te 107-115) he concluded: 1. Although I don't see Mr. Joneson as being disturbed as he appeared to be at the time of evaluation by Dr. Joffe, I do see him being disturbed to the point of making a formal diagnosis of Schizotypal Personality Disorder. It indicates a general impoverishment of his capacities to function in the adult world and therefore there is equally serious question as to his ability over the long term, to raise his two daughters, 2. Mr. Joneson could benefit from psychiatric care even possibly medication. 3. Mr. Joneson's history of heavy drinking could have led to some organic brain syndrome. (Vol 7 of 9, Te 114) He also concluded that the business world would be very difficult for him to negotiate(Vol 7 of 9, Te 110) The psychiatric evaluation done by Doctor Reebe was done on 1/20/ 94. His conclusions were Eugene Joneson 1. Has been unable to demonstrate stability and adequacy of income. Stability of residence, or adequate progress in parenting skills that would indicate that he will even be able to appropriately and adequately provide for the children's developmental stages that lie ahead. (Vol 7 of 9, TE 122) 2. He was unable to until August of 1993 to obtain a limited driving license that permits him to drive between the hours of 7 a.m. and 7 p.m. in order to work 3. Because of his instability as far as living quarters and income, he was unable to convince DCFS the other agencies such as Catholic Charities, that he was sincere or that he would ever be able to form a stable home and

life for the children.(Vol 7 of 9, TE 129). 4. In this examiner's opinion, Eugene Joneson has a severe personality disorder with a long chronic history of chronic alcoholism of at least 14 or 15 years duration.

The psychological evaluation done by Katherine Wilson on 7/07/ 94 concluded 1. Mr. Joneson did not show any evidence of experiencing auditory or visual hallucinations at that time. (Vol 7 of 9, Te 136) 2. He also appeared to have a certain level of cynical attitudes toward society and its institutions. This would not be unusual given his difficulties maintaining custody of his children. 3. He had considerable morbid content related to childbirth and infanticide. (Vol 7 of 9, Te 137) This had been explained to Doctor Tepas in his earlier evaluation that this was related to abortion protests that had been in the newspapers. (Vol 7 of 9, Te 111) and 4. Mr. Joneson had been able to abstain from alcohol, at least by his reports and others which she had read in her file. He also has managed to regain some driving privileges and to maintain a stable address, all commendable, however they do not necessarily reflect an ability to rear three children (vol 7 of 9, TE 137) Kathy Wilson concluded that with the proper therapy Mr. Joneson would be able to function as a parent and discharge his parental responsibilities with in a year (Vol 1 of 6, R 71, ln 23- R 82 ln 7)

A bonding assessment was done by Amy Anson P.H.D. at Michael Reese hospital and Medical Center on 1/3/95, 2/10/95 &2/27/95 for Luella Joneson with her birth father and her foster parents. She reported that Mr. Joneson' ability to follow through on the nurturing

tasks is in contrast to Luella' clear ability to use him as a soothing figure. Later in the sessions when Luella became upset he cuddled Luella into his arms and she stopped crying quickly (Vol 7 of 9 Te 195) When asked to leave the room for one minute, Mr. Joneson showed extreme discomfort, Luella showed some distress when her father left the room. Throughout the sessions with her biological father Luella showed interest in exploring the environment. She wandered around the room [played with furniture and played with the toys)Vol 7 of 9 , TE 104) Luella used Mr. Joneson as a secure base when her primary caretakers were not available (Vol 7 of 9 TE 1966) Under dispositions and recommendations 2. It reads given Mr. Joneson's continued desire to regain custody of Luella, dyadic therapy is strongly recommended,. The goal of this therapy would be to address Mr. Joneson in the skills outlined above so he could better read and respond to Luella's cues and needs. Helping Mr. Joneson differentiate his own needs and feelings form Luella is critical in such dyadic treatment 3. Until such dyadic treatment has been established, visitation should be supervised (Vol 7 of 9 Te 197). Foster parent bonding to Luella was considered good. 5. If Luella should be adopted at some point in the future by the Villanueva family, it is recommended that she continue to have regular contact with her biological father. This recommendation was not followed by the CC agency (Vol 7 of 9 TE 196) In fact in the caseworker notes of Julie Yalowitz she even recommends that the foster parents don not make phone contact with Mr. Joneson as requested in several letters

that he wrote to them.

A parenting assessment of Mr. Joneson was also done. The parenting assessment team evaluations were as a result of a commission made by Governor Edgar after the death of several children returned home to mentally ill parents know as the Amanda Wallace and Frank Torres cases. On the cover sheet of their report they specifically state that the purpose of their team is to evaluate the parenting capabilities of mentally ill parents. (Vol 1 of 2, 9/25/98 C 78)) It was recommended in court that the father go through this evaluation to assess his parenting abilities by his lawyer. Steve Dore since past evaluations had alluded to mental illness (Vol 3 of 6, R 16) At first this evaluation could not be done because Mr. Joneson did not meet the criteria for being severely mentally ill. This being hospitalized within the last 5 years due to mental illness (Vol 3 of 9, TE 142) But the assessment was allowed by Judge of the trial court to assess his parenting abilities in good faith they would recommend what was needed for the return of the children to Mr. Joneson. These evaluations were done in October and December of 95 and January of 96. When completed the parenting assessment team could not provide any recommendations to improve Mr. Joneson's abilities (Vol 1 of 2, 9/25/ 98 C 80) Because of this assessment reasonable progress in parenting skills was at a virtual standstill because services were not being offered for Mr. Joneson's parenting skills improvement. Mr. Joneson's therapist wrote the Catholic Charities workers and said that this was beyond the normal means of the medical profession to

say nothing could be done and that certainly something could be. He disagreed with the pessimistic tone of the assessment (vol 8 of 9 TE 129) Basically throughout this case Mr. Joneson and his therapist were left to recommending services for the return of custody of the appellant's daughters including Luella, to the Catholic Charities agency who was dissatisfied with his skills because of the recommendation of the parenting assessment team and the agency goal of adoption. Even so most of these requests were generally ignored. Previously, before the completion of the parenting assessment, no new services were offered to Mr. Joneson to improve his parenting skills except intensive psychotherapy by Tod Harrison because the caseworkers were not aware of what services to provide. (Vol 1 of 9, TE 66, Vol 2 of 9 , Gal ex3 TE 184 or TE155) Also because case reviews which would provide services had been canceled up to three years in a row previously (SR 1 of 2, 1/8/99 C 101- 103 Table of contents of Older sibling sister's in record of appeal listing all case reviews held [part of post trial motion]) This was also evidenced in the records of Minna Greene, Mr. Joneson's therapist prior to Tod Harrison(Vol 4 of 9, Te 106) No notification of case reviews, Te 23 7/19/91. Held case review without notification TE 004 9/25/92 Client case review not held, Te 008 4/19/93 DCFS canceled client's case review, TE 34 7/28/95 no case reviews for two years, Te 42 5h case review canceled, TE 81 11/10/92 Catholic Charities has been lax in informing of case reviews) Mr. Joneson and his current therapist Tod Harrison believed

that he had the parenting skills to take care of his children (Vol 8 of 9 , TE 135)The court had ordered an evaluation update on 8/6/96 (Vol 1 of 2, Sept 25th C 126-127) The Illinois Supreme Court Rule 215 was amended effective January 1, 1996 and states in pertinent part , in any action in which the physical or mental condition of a person in legal control is in controversy the court may order the party to submit to a physical or mental examination . On September 26th, 1996 the court ordered ap a physical or mental evaluation as to the appellant's ability to parent and if not if this condition will last beyond a reasonable time period, 9(Vol 1 of 2, September 25th, C 142) This evaluation was to be completed within 30 days, It was never completed until Mr. Joneson did so personally with Doctor Marty Blackman in 1987 (Vol 7 of 9, Te 146-154)

This most recent evaluations done on 6/20/97 and 6/23/97 and submitted as evidence in court was completed by Doctor Marty Blackman though Doctor Child's office, a well know child psycholoIgist in the Chicago area.(Vol 7 of 9, TE 146) Doctor Blackman concluded that Mr. Joneson does not have a personality disorder and he does not meet the diagnostic criteria for Schizotypal Personality Disorder although he may manifest Schizotypal Personality traits. Diagnostically he meets the criteria for alcohol Dependence in Remission (Vol 7 of 9, TE 153,154) He saw no reason why the children should not be returned to their father or his rights be terminated as Mr J did not meet the criteria for a personality disorder, Vol 2 of 6, R 180) This was in

agreement with the current evaluation of Mr. Joneson's therapist Tod Harrison who was still providing intensive therapy recommended for the return of his children., possibly within one year at that time. Mr. Harrison after over 40 hours of therapy did not see Mr. Joneson as having a severe personality disorder and did not see a reason why Mr. Joneson could not be considered as an adequate parent(SR 1 of 2, Jan. 6th, 1996, C 90-93)

New substantial evidence written in a letter by John Lietzau , Mr. Joneson's current family therapist, reads the alleged personality disorder simply does not exist (Sr 1 of 2, Jan. 8th, C 94). Mr. Lietzau had also observed Mr. Joneson interacting with children at Loyola Medical Hospital in the pediatrics department where Mr. Joneson the appellant is a volunteer (Vol 2 of 2, 9/265/96, C 291) besides having 9 therapy sessions with Mr. Joneson (SR 2 of 2, January 8th 1996, C 279-Treatment at Family Interventions) This was in the appellant's motion to have therapist at visits which was denied because the judge did not have jurisdiction because 30 days had elapsed from the termination of parental rights.

In the appellate court mandate issued in May of 1997 for the reversal of the trial court's finding of fitness for older sibling sisters it reads that the respondent's lack of reasonable progress toward reunification with his children was due in large measure to his own chronic personality disorder(Sr 1 of 2 Jan. 8th, C 750 The appellate court was unaware of the results of the current intensive therapy provided by Mr. Joneson's therapist, Tod Harrison at that time and the current psychological

evaluation by Doctor Mary Blackman that stated that a personality disorder does not exist (Also no mention was made of the case reviews canceled for three years which would allowed new services or current services to be reviewed for improvement in parenting skills.) They were every aware that court testimony by Katherine Wilson had stated that Mr. Joneson would possibly be ready to parent within a year if he had intensive therapy relating to his parenting disorder (Vol 1 of 6, R 101) The majority of the caseworker issues centered around Mr. Joneson's ability to set limits, use age appropriate toys, language and the bonding with his children., All of these areas were considered as inadequate for Mr. Joneson as to the return home of his daughter Luella.

ARGUMENT

1 The trial court's December 2nd unfitness determination terminating parental rights on the failure to make reasonable progress was not clear and convincing and against the manifest weight of the evidence

There was no clear and convincing evidence that Eugene Joneson was unable to discharge his parental responsibilities and thus unable to make reasonable progress in the return of Luella Joneson.

A. The original charges why case came into care because of risk of harm due to mental illness were dismissed and never considered as an issue in the trial of Luella Joneson. Mental illness was a major and central theme carried through the older sibling sister's case and brought to bear in the trial of Luella Joneson (SR 1 of 2, Jan. 8th, C 75) But as everyone agreed at pretrial and

during trial that mental illness was no longer an issue (Vol 2 of 6, 138) The elimination of the mental illness issue should be considered reasonable progress in itself for the return home of Luella Joneson and the dismissal of unfitness charges as it was the main reason progress was not made for the return of children as evidenced in the supreme Court Mandate from the older sibling sisters (Sr 1 of 2 Jan. 8th, C 75) and the major reason for the finding of unfitness.

This brings to argument the real reasons for no progress being made as reported by the CC agency. As discussed later, this argument includes such evidence as improperly trained caseworkers, misuse of a parenting assessment, services not being offered or being inadequate and the agency being adoption oriented to the point that any progress made by father that was not for adoption was considered unsatisfactory. In other words Mr. Joneson's efforts for the return home of his daughter were thwarted by case worker actions. (And sometimes by no actions.

Ironically speaking the charges of mental illness were added to the adoption petition of the older sibling sisters almost eight years after their case came into care on November 10, 1993, (Vol 1 of 6, R9)

When Luella Joneson's case came into care on February 22nd 1994, the temporary custody hearing order specifically stated that the parents of this minor are mentally ill and unable to care for this minor. (Sr 1 of 2, C 74 & Vol 1 of 2 C 10-11) In peoples's Group exhibit "a" for Intake Data the summary concludes with the father has completed many services, but there are

psychological and psychiatric evaluations that question his ability to parent. Because the father is not involved in any intensive on going individual therapy, there is nothing to dispute these evaluations. If the father does not follow through with his therapy or the therapist, is also in agreement with the evaluation's findings than the case should be brought to adoption. This was a constant theme throughout these exhibits {Peoples Group exhibit A (Vol 1 of 9, 12/16/94 Te 44 Current situation, 45, Summary, and 34 Service Recommendations) Peoples Group exhibit B1 Trial Exhibits (Vol 1 of 9, TE 51 Client Service Plan 6/13/94 Summarize significant developments, Peoples Group Exhibit B2 (Vol 1 of 9, TE 57) 11/7/94 Reasons why unsatisfactory progress for return home of children (Vol 1 of 9, TE 64)_ Client and Service Tasks, Individual psychotherapy, Peoples Group Exhibit B 3 , Client Service Plan 4/10/95 Tasks attend individual psychiatric therapy, Peoples group Exhibit B4 Client service plan 10/18/95..Why does father currently need services (psychological and psychiatric evaluations that question his ability to parent), People's Group B 6- 15 (Vol 2 of 9, TE 11) 04/09/96 service plan to attend individual psychotherapy People's Group B 7 (Vol 2 of 9, Te 60, 104) Client Service Plan tasks 10/8/96-4/7/97 and 4/7/97-10/31/98 father has shown positive report from therapist in psycho therapy.

In conclusion from the beginning of intake of Luella Joneson and throughout the case as evidenced in the case reviews to the end, the father of Luella Joneson has been trying to refute earlier psychological evaluations

denying his mental stability and thus parenting ability.

On May 23rd of 1995 DCFS and Catholic Charities had met and decided what services were to be offered for Mr. Joneson for the return of his children, he would have to get : 1. A neurological psychological evaluation 2. A physical neurological evaluation and 3. Attend on a weekly basis to a referred psychologist or psychiatrist, .All of these issues concerned mental illness and Mr. Joneson accomplished all of the above tasks with positive results. The reasons underlying a court order from a dispositional hearing should be considered when an agency like DCFS decides what steps must be taken by the parent to achieve the return of the child to the parent's custody 577 NE 2d 1388.

Christopher Randolph from Northwestern University indicated there were no neuropsychological abnormalities(Vol 6 of 9 ,TE 296) This was confirmed by Julie Linkon's letter written on 6/29/95 to Steve Dore, public defender (Vol 3 of 8 TE 142). The report from Doctor J. Anderson from the University of Illinois recommended that no further neurological studies be made at this time(Vol 6 of 9, TE 2000).

On July 27th, 1995 Tod Harrison the selected LCSW to provide the therapy for Mr. Joneson met with Julie Linkon (married to Yalowitz) and Pam Palmentera along with his attorney's from the public defender's office and discussed the counseling goals for the return of the children (Vol 8 of 9, Father's Exhibit # 9 TE 110) These included issues of why the case came into care, auditory hallucinations, parenting disabilities, what could be done for the return of the children, feelings about

case management issues and to follow all recommendations of the Community Counseling Center of Chicago. This was confirmed as having been accomplished and was stated in Tod Harrison's letter of 10/27/95 as to details of treatment.

Doctor Childers, a psychiatrist from 4-Cs (Chicago Community Counseling Center) reported Mr. Joneson as not to be suffering from any auditory hallucinations (Vol 8 of 9, Te 137). This was confirmed in the ACR caseworker report date of plan 10/ 28/ 95 (Vol 1 of 9 People's group B 4, pg 3) Eventually the above mentioned therapy by Tod Harrison resulted in including over 60 sessions with therapist Tod Harrison. This therapy also met the requirements of psychologists, Katherine Wilson, who in her testimony at trial recommended intensive therapy so Mr. Joneson would meet the parenting requirements for the return of his children possibly with a year (Vol 1 of 6, R 71 ln 23- R 72 ln 7). Mr. Harrison concluded and stated in his letter on March 24th, 1997 to whom it may concern (Father's Exhibit#11 (vol 8 of 9, Te 113, 126) and on July 15th 1997 to Steve Plotkin (SR 1 of 2, C 91-93) Mr. Joneson's attorney representing him on Luella's older sibling sister's supreme court appeal. That after 60 sessions he did not see Mr. Joneson as having a severe personality disorder (SR 1 of 2, C 91).

The above results refuted previous psychologicals and indicated a misdiagnosis was done by Doctor Joffee (1989 & 1`991), Dr. Tepas (1989), Doctor Reebe (1/20/94) and Katherine Wilson (7/7/94) in earlier evaluations and or that tremendous progress

had been made through current therapy. On Doctor Joffee's evaluations of 8/11/89 and 12/06/91 (Vol 7 of 9, Te 100- 107 & 116-121) he summarized in conclusion for 1989 that 1. Mr. Joneson fails to perceive reality with any degree of accuracy at these times and likely self-medicates with alcohol, the use of which can be under tenuous control at best. Unfortunately, past treatment has focused on Mr. Joneson's alcohol abuse which is not primary bu rather symptomatic of far more serious difficulties. Mr. Joneson must first learn to manage his own affairs with some degree of competence and is not likely to do so without intensive psychiatric intervention. In Joffe's 1991 evaluation he concluded 1. Mr. Joneson stated that he had two past A.A. sponsors but that neither of these had continued, that both sponsors required a greater commitment from him than he was willing to give and that he did not wish to organize his life around AA attendance. He wanted to live a more normal life (Vol 7 of 9, TE 117). It seems unlikely that Mr. Joneson will obtain even restricted driving privileges with his present level of involvement in AA or other forms of treatment. It remains unlikely that his driving privileges will be restored with his expressed attitudes in this regard and the examiner is hard pressed to believe Mr. Joneson can appropriately care for his children when he continues to experience such difficulties in negotiating his own affairs. It is also that Mr. Joneson has mismanaged his finances and has raised questions concerning his overall level of financial responsibility. His knowledge of his children remains quite limited and his ability to profit from specific instruction in this regard

also remains suspect (Vol 7 of 9, Te 120) (Again no mention was given that Mr. Joneson had still not received or recommended any parenting skills classes from the agency) 2. There was no apparent evidence of psychotic functioning at this time. (Vol 7 of 9, Te 119).

Again substantial information had been provided to indicate these financial responsibility conclusions were incorrect. (Vol 8 of 9, Te 143 k, 146-148, 217-221, Vol 3 of 9, TE 34 -42, 48-56, 221) Mr. Joneson also received his drivers license back in 1995 (Vol 3 of 9, TE 27) If there was any limitation of Mr. Joneson's knowledge of his children it was due in large to what the DCFS agency would provide (Case review plans, medical and school records) and to what the father was allowed to talk about with his children in the limited one hour per month allowed for visitation or in large to DCFS failure to provide any parenting classes up until the year of 1991. And than they only provided one. (SR 1 of 2 1/8/99, C 11) In Doctor Tepas evaluation done on 9/14/89 (Vol 7 of 9, Te 1070115) he concluded: 1. Although I don't see Mr. Joneson as being disturbed as he appeared to be at the time of evaluation by Dr. Joffe, I do see him being disturbed to the point of making a formal diagnosis of Schizotypal Personality Disorder. It indicates a general impoverishment of his capacities to function in the adult world and therefore there is equally serious questions as to his ability to over the long term, raise his two daughters 2. Mr. Joneson could benefit from psychiatric care even possibly medication. 2. Mr. Joneson's history of heavy drinking could have led to

some organic brain syndrome(Vol 7 of 9, TE 114) He also concluded that the business world would be very difficult for him to negotiate (Vol 7 of 9 TE 110) All of these conclusions were covered in the initial psychological and psychiatric evaluations and therapy suggested in the beginning for treatment for the Luella Joneson case, and found to be untrue except for the financial ability The evidence of financial stability indicating Doc Tepas was wrong again in his conclusions was supplied through data provided during the ACRS (vol 3 of 9, TE 49, 54, 56)

This indicated that Mr. Joneson was stable enough to maintain an income through his business that could provide for three daughters. This evidence is no longer an issue in the unfitness trial of Luella Joneson(Vol 5 of 6, R 206 ln 5-11, R 207 ln 2- R 208 ln 5) The psychiatric evaluation done by Doctor Reebe was done on 1/20/ 94. His conclusions were Eugene Joneson 1. Has been unable to demonstrate stability and adequacy of income, stability of residence. Or adequate progress in parenting skills that would indicate that he will even be able to appropriately and adequately provide for the children's developmental stages that lie ahead. (Vol 7 of 9, TE 122) 2 He was unable to until August of 1993 to obtain a limited driving license that permitted him to drive between the hours of 7 . M. and 7 p. m. in order to work 3. Because of his instability as far as living quarters and income, he was unable to convince DCFS the other agencies such as Catholic Charities, that he was sincere or that he would ever be able to form a stable home and life for the children (Vol 7 of 9, TE 129). 4. In this

examiner's opinion, Eugene Joneson has a severe personality disorder with a long chronic history of chronic alcoholism of at least 14 or 15 years duration. Again in contradiction substantial evidence has been presented with regards to Mr. Joneson's financial stability brought up in these reports. (Vol 7 o 9. TE 130) and Abstinence from alcohol (Vol 8 of 9 TE 169, 173-216, 22-241) Doctor Reebe did not recommend any further investigation into the allegations that three years ago Catholic Charities decided that they wanted to put the two children up for adoption by their present foster parents and at that point DCFS stopped notifying him of case reviews and providing services. And although for the past three years he and his lawyer had been trying to attend case reviews, the agencies have thoroughly avoided him and theat he believed that they are trying to go ahead with the adoption in spite of his objections (Vol 7 of 9 TE 127) The psychological evaluation done by Katherine Wilson on 7/07/94 concluded 1. Mr. Joneson did not show any evidence of experiencing auditory or visual hallucinations at that time(Vol 7 of 9, TE 136) 2. He also appeared to have a certain level of cynical attitudes toward society and its institutions. This would not be unusual given his difficulties maintaining custody of his children 3. He had a considerable morbid content related to childbirth and infanticide. (Vol 7 of 9, Te 137) This had been explained to Doctor Tepas in hi earlier evaluation that this was related to abortion protests that had been in the newspapers(Vol 7 of 9, TE 111) and 4.Mr. Joneson had been able to abstain from alcohol, at least by his reports and others which she had

read in her file. He also has managed to regain some driving privileges and to maintain a stable address, all commendable, however they do not necessarily reflect an ability to rear three children (vol 7 of 9, TE 137) Kathy Wilson concluded that with the proper therapy Mr. Joneson would be able to function as a parent and discharge his parental responsibilities with in a year (Vol 1 of 6, R 71, ln 23- R 72 ln 7)

A bonding assessment was done by Amy Anson P.H.D. at Michael Reese hospital and Medical Center on 1/3/95, 2/10/95 &2/27/95 for Luella Joneson with her birth father and her foster parents. She reported that Mr. Joneson' ability to follow through on the nurturing tasks is in contrast to Luella' clear ability to use him as a soothing figure. Later in the sessions when Luella became upset he cuddled Luella into his arms and she stopped crying quickly (Vol 7 of 9 Te 195) When asked to leave the room for one minute, Mr. Joneson showed extreme discomfort, Luella showed some distress when her father left the room. Throughout the sessions with her biological father Luella showed interest in exploring the environment. She wandered around the room [played with furniture and played with the toys)Vol 7 of 9 , TE 104) Luella used Mr. Joneson as a secure base when her primary caretakers were not available (Vol 7 of 9 TE 1966) Under dispositions and recommendations 2. It reads given Mr. Joneson's continued desire to regain custody of Luella, dyadic therapy is strongly recommended,. The goal of this therapy would be to address Mr. Joneson in the skills outlined above so he could better read and respond to Luella's cues and

needs. Helping Mr. Joneson differentiate his own needs and feelings form Luella is critical in such dyadic treatment 3. Until such dyadic treatment has been established, visitation should be supervised (Vol 7 of 9 Te 197).In actuality treatment was never provided or referred to by the agency because they did not think it was necessary at the time due to the current goal of placement at that time which was foster care placement and not return home (Vol 5 of 9, R 132) All requests for Dyadic treatment were ignored, All letters by Tod Harrison to Julie Yalowitz asking if there was anything else that could be done were never replied to and actual request for therapy never acknowledged (Vol 8 of 9, Te 137) Please grant Mr. J. all the support and services to which you feel he is entitled to TE 115 Mr. Harrison requests a further conference to define planning and measurable goals in order to have the children returned to Mr. Joneson 10/27/95, TE 131 & 133 Please write to let me know how I can better serve the interests of Mr. Joneson. 11/27/965 , TE 128 trusting a copy of this letter was delivered to CC about providers for family therapy 2/25/97 This was probably because the return home plan was not an option at this time. (Vol 3 of 9, R 15-16) 5. If Luella would be adopted at some point in the future by the Villanueva family, it is recommended that she continue to have regular contact with her biological father. This recommendation was not followed by the CC agency(vol 7 of 9, TE 196). In fact in the caseworker notes of Julie Yalowitz she even recommends that the foster parents do not make phone contact with Mr. Joneson as requested in several letters

that he wrote to them.

A parenting assessment of Mr. Joneson was also done. The parenting assessment team evaluations were as a result of a commission made by Governor Edgar after the death of several children returned home to mentally ill parents know as the Amanda Wallace and Frank Torres cases. On the cover sheet of their report they specifically state that the purpose of their team is to evaluate the parenting capabilities of mentally ill parents. (Vol 1 of 2, 9/25/98 C 78)) It was recommended in court that the father go through this evaluation to assess his parenting abilities by his lawyer. Steve Dore since past evaluations had alluded to mental illness (Vol 3 of 6, R 16) At first this evaluation could not be done because Mr. Joneson did not meet the criteria for being severely mentally ill. This being hospitalized within the last 5 years due to mental illness (Vol 3 of 9, TE 142) But the assessment was allowed by Judge of the trial court to assess his parenting abilities in good faith they would recommend what was needed for the return of the children to Mr. Joneson. These evaluations were done in October and December of 95 and January of 96. When completed the parenting assessment team could not provide any recommendations to improve Mr. Joneson's abilities (Vol 1 of 2, 9/25/ 98 C 80) This violated the original purpose for having the assessment in the first place which was to provide recommendations for Mr. Joneson to improve his parenting skills. Instead this information done especially on parents of the mentally ill was used as the basis for evidence by the state and the guardian ad litem in the unfitness and best

interests hearing in October 1997 and April of 1998 as to risk of physical harm because of lack of reasonable progress in parenting skills. This was also done even though at pretrial it was agreed that it was no longer an issue of mental disorder but reasonable progress and efforts in parenting skills.(Vol 2 of 6, R 138 ln 10-21) This not only violated the rules of evidence but was an act of discrimination in that the assessments basic criteria for selecting a parent for evaluation was that the parent was suspected of a mental illness that would prevent him from having his children returned (Vol 7 of 0, TE 155) This evidence was to be used for improving parenting skills and not as evidence for reasons for adoption. On the cover pamphlet used for presentation of the explanation of this evaluation it specifically states that the team does not make decisions about custody but collects information to help in answering questions about what the parent can and cannot do, and what may help improve parenting problems (Sr 1 of 2 1/8/99 C 85). It did none of that and was fraudently entered as evidence against the appellant. In 529 NE 2d 972 it read constitutional errors must be shown to be harmless beyond reasonable doubt. The basis for evidence from the parenting assessment report for the state's entire case was a report based on mental illness which the state had created in its earlier evaluations of the appellant by previous psychiatrists and psychologists(Vol 7 of 9 , 166-167 Sources of information) The majority of the evidence used was based on an assessment reports that basically dealt with Mr. Joneson as a mentally ill person and his emotional and mental defects because of it

Nothing was said about what could be done about improving the parenting abilities of the appellant. In fact the conclusion was that they do not see any intervention as being sufficient to address the deficiencies in Mr. Joneson's parenting skills. This is without a doubt a constitutional error that has caused great harm to the appellant with the outcome of the trial court judgement using this evidence to find him unfit to parent and to terminate his parental rights.

Because of this assessment reasonable progress in parenting skills was at a virtual standstill because services were not being offered for Mr. Joneson's parenting skills improvement. Mr. Joneson's therapist wrote the Catholic Charities workers and said that this was beyond the normal means of the medical profession to say nothing could be done and that certainly something could be. He disagreed with the pessimistic tone of the assessment. (Vol 8 of 9, TE 129) Basically throughout this case Mr. Joneson and his therapist were left to recommending services for the return of custody of the appellant's daughters including Luella, to the Catholic Charities agency who was dissatisfied with his skills because of this recommendation of the parenting assessment team and their agency; goal of adoption. Even so most of these requests were generally ignored. Previously, before the completion of the parenting assessment, no new services were offered to Mr. Joneson to improve his parenting skills except intensive psychotherapy by Tod Harrison because the caseworkers were not aware of what services to provide, (Vol 1 of 8, TE 66)(Vol 2 of 9 , Gal EX # 3.

184 or TE 185)services had been canceled up to three years in a row previously (SR 1 of 2, 1/8/99 C 101-103 Table of contents of Older sibling sister's in record of appeal listing all case reviews held [part of post trial motion]) This was also evidenced in the records of Minna Greene, Mr. Joneson's therapist prior to Tod Harrison(Vol 4 of 9, Te 106) No notification of case reviews, Te 23 7/19/91. Held case review without notification TE 004 9/25/92 Client case review not held, Te 008 4/19/93 DCFS canceled client's case review, TE 34 7/28/95 no case reviews for two years, Te 42 5th case review canceled, TE 81 11/10/92 Catholic Charities has been lax in informing of case reviews) Mr. Joneson and his current therapist Tod Harrison believed that he had the parenting skills to take care of his children (Vol 8 of 9 , TE 135)

The court had ordered an evaluation update on 8/6/96 (Vol 1 of 2, sept 25th C 126-127) The Illinois Supreme Court Rule 215 was amended effective January 1, 1996 and states in pertinent part, in any action in which the physical or mental condition of a person in legal control is in controversy the court may order the party to submit to a physical or mental examination . On September 26th, 19997 the court ordered a physical or mental evaluation as to the appellant's ability to parent and if not if this condition will last beyond a reasonable time period (Vol 1 of 2, September 25th, C 142) This evaluation was to be completed within 30 days. It was never completed until Mr. Joneson did so personally with Doctor Marty Blackman in 1997(Vol 7 of 9, TE 146-154).

This most recent evaluations done on 6/29/97 and 6/23/97 and submitted as evidence in court was completed by Doctor Marty Blackman through Doctor Child's office, a well know child psychologist in the Chicago area(Vol 7 of 9, Te 146)Doctor Blackman concluded that Mr. Joneson does not have a personality disorder and he does not meet the diagnostic criteria for Schizotypal Personality Disorder although he may manifest Schizotypal Personality traits. Diagnostically he meets the criteria for alcohol Dependence in Remission (Vol 7 of 9, TE 153,154) He saw no reason why the children should not be returned to their father or his rights be terminated as Mr J did not meet the criteria for a personality disorder, Vol 2 of 6, R 180) This was in agreement with the current evaluation of Mr. Joneson's therapist Tod Harrison who was still providing intensive therapy recommended for the return of his children., possibly within one year at that time. Mr. Harrison after over 40 hours of therapy did not see Mr. Joneson as having a severe personality disorder and did not see a reason why Mr. Joneson could not be considered as an adequate parent(SR 1 of 2, Jan. 6th, 1996, C 90-93)

New substantial evidence written in a letter by John Lietzau , Mr. Joneson's current family therapist, reads the alleged personality disorder simply does not exist (Sr 1 of 2, Jan. 8th, C 94). Mr. Lietzau had also observed Mr. Joneson interacting with children at Loyola Medical Hospital in the pediatrics department where Mr. Joneson the appellant is a volunteer (Vol 2 of 2, 9/265/96, C 291) besides having 9 therapy sessions with Mr. Joneson (SR 2 of 2, January 8th 1996, C 279-

Treatment at Family Interventions) This was in the appellant's motion to have therapist at visits which was denied because the judge did not have jurisdiction because 30 days had elapsed from the termination of parental rights.

In the appellate court mandate issued in May of 1997 for the reversal of the trial court's finding of fitness for older sibling sisters it reads that the respondent's lack of reasonable progress toward reunification with his children was due in large measure to his own chronic personality disorder(Sr 1 of 2 Jan. 8th, C 750 The appellate court was unaware of the results of the current intensive therapy provided by Mr. Joneson's therapist, Tod Harrison at that time and the current psychological evaluation by Doctor Mary Blackman that stated that a personality disorder does not exist (Also no mention was made of the case reviews canceled for three years which would allowed new services or current services to be reviewed for improvement in parenting skills.) They were every aware that court testimony by Katherine Wilson had stated that Mr. Joneson would possibly be ready to parent within a year if he had intensive therapy relating to his parenting disorder (Vol 1 of 6, R 101)

In summary the main reason the case came into care, suspected mental illness, was basically eliminated through 1. Intensive therapy provided by the defendant's therapist as recommended by DCFS through Catholic Charities and the state's psychologist Katherine Wilson(Sr 1 of 2, 1/6/99 C 90. 91-93) 2. The most recent evaluations done by a psychologist Marty Blackman (Vol 7 of 9, Te 149-155) 3. The most recent

psychiatric report by Doctor Childers (Vol 8 of 9, Te 137), 4. The most recent reports from Doctor Chris Randolph from Northwestern University indicating no neuropsychological disorder (Vol 4 of 6, R 172 ln 21-24- 173 ln 1 -11) 5. Doctor Anderson's evaluation report from the University of Illinois indicating no neurological disorder (Vol 7 of 9, TE 145) and 6. New substantial evidence from current family therapist John Lietzau that a personality disorder that does not exist (SR 2 of 2, 1/8/98, C 279) and 7. The admission by the state and guardians' office that this is not an issue of mental disability at pretrial July of 1997(Vol 2 of 6, R 138)

Certain courts have interpreted this statue to hold that "reasonable progress" involves an objective judgement. The benchmark for measuring such progress is the conditions in existence when custody was taken from the parents In re S.J., 233 Ill. App. 3d at 121, 598 N. E.2d at 477 In re Interest of L. N. 278 Ill. App. 2d 50-51,662 N.E, 2d at 154,155 . Or the conditions in existence when custody was taken from the parents In re S. G. 210 Ill. App. 3d, 668, 669-70. 579 N.E, 2d 932, 934 (2nd Dist. 1981) ; In re M.C. 201 Ill. App, 2d 792, 798, 559 N.E. 2d 236, 239 (1st Dist. 1980) As the major issue for removal of Luella Joneson, that of mental illness of the parents, in this case only Mr. Joneson, had been ruled out as the main reason why the Luella Joneson's case came into care, (which was also the basis for the finding of unfitness of the father Mr. Joneson for the older sibling sisters of Luella Joneson in an appellate reversal of a finding of fitness of the appellant by the trial court. The focus of the trial centered on the parenting skills of the defendant Mr. Joneson.

On February 9th, 1994 the intake report of an interview with the intake worker Willa Henning(Vol 1 of 9, TE 19,20 People's Group exhibit A reads The baby was clean and there were diapers, but they were feeding the baby cereal, juice, milk. Thinking this could be dangerous they called the Hotline. In court testimony she testified the baby appeared healthy(Vol 1 of 6, R 106) But the bay was not taken from the home because of risk of harm On the following day the workers returned and took the baby Luella from her mother Frances O'Neill. Several of the reasons given were that: 1. The mother had previously been diagnosed as a schizophrenic 2. She was off her medication 3. The parents had the baby at home so Luella would not be taken away (thus not providing medical care) and 4. She could not provide any doctor's names who provided medical attention.

In the intake report Mr. Joneson denied any knowledge that the mother was diagnosed as a paranoid schizoid and also believed that she suffered from severe post-partum depression and that if she was taking medication she stopped because she was having a reaction to it and that it was not good for the baby's health (Trial Exhibits 1 of 9 , Intake Data at people's group exhibit A, Te 20 25, 28, Child Abuse/ neglect investigation Review notes) This was also confirmed by a letter written by Mr. Joneson to Willa Henning in court when he asked for DCFS help ;with the mother of his children)Sr 1 of 2, C 137-140)

The defendant also denied knowing about any court order saying he was not to be living with the

mother of his children at that time.. He was aware that the agency had recommended that he did not live with the mother of his children due to her uncooperativeness with them and this had been mentioned in court, but no court order was ever made with regard to this issue. In fact no court order has ever been found of that type in the common law record, transcripts or trial exhibits or has ever been presented in court on a motion or as evidence. If this order does exist it has not been presented by either the state or guardian. It seems to the appellant ,Catholic Charities had taken into its power the determination of making its own court order. It has been mentioned repeatedly in case transfers to Catholic Charities Evaluations and the most recent case reviews. This has provided a great deal of confusion in the beginning court and case reviews of Luella Joneson's case. This was also due largely to at that period of time no case reviews had been held up to three years by Catholic Charities and or DCFS with Mr. Joneson's participation because they never notified him. It was finally agreed upon as a service objective in the ACR plan of 11/7/94 by the appellant father that he would no longer have contact with the mother of the children. This was ten months after Luellā was born as the mother of Luella was not longer cooperating in services or visitation with father(Vol 6 of 9, TE 100, Gal Ex 1a) This separation from the mother of his children has existed for Mr. Joneson from that day of agreement 11/7/94 and up until this very day of August of 1999 and should be considered as another major milestone of progress for the appellant father, In 575 NE 2d 262

reasonable progress is more objective depending upon amount of progress measured from conditions existing at time custody was taken from parents. In Interest of Austin 378 NE 2d 543 Reasonableness may also depend on the situation which led to the removal of the children, since slight progress in correcting a situation which was relatively mild could be viewed as more satisfactory as the same degree of progress in correcting a situation that greatly endangered the child.

An investigation letter about the 1994 incident reported indicated suspected child abuse or neglect but Mr. Joneson was not named as the person responsible for the child abuse or neglect(Sr 1 of 2, C 141). This report should be consideration enough for dismissal of charges and was included in the post-trial motion to vacate unfitness and best interest judgement. Filed on May 6th, 1996 (Vol 1 of 2 1/8/99 Circ Stamp, C 141)

The issue of failure to make reasonable progress in parenting skills was brought up in a psychological evaluation with psychologist Katherine Wilson(Vol 7 of 9, TE 134-135 Gal exhibit 2 e) who assume Mr. Joneson had over 5 years of parenting classes. The father was asked why when mother was putting baby cereal into the bay formula that defendant did not do anything. He said he had his baby book and it indicated that this could be added if it was of a liquid consistency (SR 1 of 2, App. Stamp 3/5/99 C 173) Time for solid foods -how soon to feed the baby foods other than milk is a topic of continuing controversy) This part was not included in report but included in the post trial motion to vacate unfitness or best interest judgement(SR 1 of 2,

App. Stamp 3/5/99, C 54) At trial this controversy of feeding cereal in the formula was graduated to an allegation that the parents of Luella were feeding the baby adult cereal.(Vol 5 of 6, R 233, ln 21-23) No testimony by the intake workers for Luella Joneson to support the statement by the state as indicated above can be found in the record of file. Considering the controversy of the experts over this issue of healthy stomach adjustment to solid foods and that Mr. Joneson again could not be considered as unknowledgeable of this parenting technique, the appellant should not be considered as submitting his daughter Luella to risk of harm because the formula was of a liquid consistency.

In (Vol 2 of 9 163 B, Laura Scott reports Mr. Joneson brought a formula for 6-12 month olds to help in promoting to eat solids, but the baby wanted her regular formula, This report indicates progress in parenting skills from which brought this case into care. The appellant is now providing uncontroversial methods of food feeding for Luella(Vol 2 of 9, R 212) In fact the record is full of caseworker or case aid reports made that have mentioned the fact that formula has been brought that is age appropriate, In Vol 2 of 9, TE 144 B formula 4/15/94, 147B, 150B, 157B,160B,161B, 164B, 165B, 166B, stained sweet potatoes and prunes 11/24/94, B167 banana, turkey squash, B168 sweet potatoes & chicken, B169 baby food, B 170 baby food, B172 carrots, veal, strawberry, banana ,B176 milk and cereal 11/30/95 etc. to Te 233) In 575 NE 2d reasonable progress is more objective, depending upon amount of progress measured from conditions existing at

time custody was taken from parent.

As far as having Luella at home so that she would not be taken away it was also discussed with Katherine Wilson, psychologist, evaluator that: 1. Pre-natal notes had been kept (Vol 7 of 9, TE 134 2nd para) 2. The mother was taken to the hospital after delivery (Vol 3 of 9, TE 196-210) and 3. That a certificate of birth had been made by the hospital when baby was brought home(Vol 7 of 9, Te 134 GAl exhibit 2 e) The actual evidence of the notes and certificate were included in the post-trial motion (SR 1 of 2 Jan. 8th, 1998 C 113-131 and 112 these were denied for admissibility) During court testimony at the older sibling sisters trial,. The above Katherine Wilson indicated that since Luella was not born in a hospital she took it to be as symptoms of a mental disorder...I guess you could say hippies might think it more wholesome to be born at home. But people with a religious objection to medical care would not have a mental disorder..(Vol 1 of 6, R 77 ln 11-14, R 78 ln 1-11) This indicates a personal bias by the witness Wilson.

In conclusion the above evidence certainly indicates that reasonable progress has been made from, the conditions that caused the removal of Luella Joneson. The father is no longer seeing the mother and proof has been presented that shows medical attention was given to the baby before and after birth for both mother and child and the baby was in good health when the intake workers arrived for investigation. Also that perhaps an overzealous decision was made with regards to feeding methods. But now father is no longer using

controversial methods of feeding. In 575 NE 2d reasonable progress is more objective, depending upon the amount of progress measured from conditions existing at time custody was taken from parent.

In the reading of her final judgement, Judge Mulhern had ruled that the father Eugene Joneson and mother France O'Neill had their baby at home with little concern for her health.. But only to conceal the birth from the Catholic Charities agency(Vol 2 of 6, R 211) Also that the lack of pre-natal care was shown in that the father could not even tell the day the baby was to be born. This judgment was not vacated even though evidence was submitted indicating this was not true in the submitted post trial motions for unfitness and best interest.(SR 1 of 2 January 8th, C 57 C 112-140) This post trial evidence indicated that Luella was taken to Weiss Memorial Hospital immediately after she was born where both the mother and baby were given after birth care. (Hospital certificate and copies of bills) It was also confirmed by Willa Hennings, intake worker's testimony in court (Vol 1 of 6, R 103) And it was also confirmed in Kathy Wilsons evaluation that the father had taken pre-natal notes for approximately the eight months that her pregnancy was known. (Vol 7 of 9, Te 134) Also in actuality records from Minna Greene, Mr. Joneson's family therapist for more than several years earlier and also the pre-natal notes printed by Mr. Joneson indicate somewhat with accuracy the approximate month of delivery. (Vol 4 of 9, TE 12 and SR 1 of 2, Jan. 8th, C 1125 Pre-natal notes)

Judge Mulhern had also mentioned that Mr.

Joneson testified that Luella was removed from his custody not due to any thing he did but due to Ms. O'Neill actions of abandoning her In contradiction the record is complete with evidence that Luella was not abandoned by her mother but was taken by DCFS investigations on allegations of risk of harm because the parents were mentally Ill (SR 1 of 2, 1/8/99 C 73,74) This should definitely be considered an erroneous ruling on Judge Mulhern's part.

Ad last of all, in her final judgement Judge Mulhern mentions the inability to anticipate Luella's needs or to put her needs before his as not being to read Luella's cues was another reason for termination. In Re SJ 596 NE 2d 477 where a parent has made substantial progress toward correcting the condition that led to the removal of the child, the lack of what DCFS seems satisfactory interaction between parent and child is not justification for the termination of parental rights. Examples of this would be when he said Does the foster parent beat you? As inappropriate.(Vol 2 of 6, R 2120 This thinking that Luella may be abused at home by the foster parents because she came to visits and she was always crying was inappropriate when a more appropriate response would have been she missed her foster parents. Judge Mulhern was not aware of the time when Luella came to a visit with a bump on her head at approximately the same time crying incidents were occurring with her but it was reported to the case aids b y Mr. Joneson (Vol 2 of 9, Te 157, 8/3/94, TE 158 8/9/94) But wether or not she was aware of the above case report the appellant believes that meeting the

concerns for Luella's safety was certainly more important than if the appellant was providing the proper nurturing for her at that time. It was also at least meeting minimum parenting standards in his mind. The DCFS 89 Illinois Administrative Code Ch.111, Sec 304.2 reads that minimum parenting standards means that a parent or other person responsible for the child's welfare sees the child is adequately protected from severe physical, mental and emotional harm. Luella at the time of this incident was not old enough to talk or understand talking State law reads that the inability to nurture or interact is not a proper statutory basis for the removal of children in this state. The children were originally taken away because of the injurious environment and the parents should not have their parental rights terminated for these other nebulous, uncharged reasons. To decide otherwise would allow the state to terminate parental rights for non-statutory reasons which were originally uncharged and which parents have no reason to know are possible bases for the removal of their children Blakey v. Blakey 391 Ne. Ed 222 or (Sr 1 of 2, January 8th, C 97)

Judge Mulhern also indicates that Mr. Joneson cannot be relied upon to meet Luella's needs for emotional support, nurturing or recognizing risks or problems that arise. The visitation history bears this out(Vol 2 of 6 R 212 ln 55 -13) The father ,appellant believes that in reviewing the caseworkers testimony in court and caseworker's reports about visitation discrepancies exist between cross examination of workers, actual facts in evidence, the father or Mr. Joneson's testimony and

ironically case aid reports about visitation which are favorable to Mr. Joneson.

Theses discrepancies indicate that caseworkers were only looking for things that could be wrong with such intensity that it `1. Caused the exaggeration and miscalculation of actual acts that occurred 2. Caused interference of normal visitation to the point that caseworker and client antagonism developed. This bias should be considered along with the inadequacy of the caseworkers parenting skills. The first caseworker who began mentioning inappropriate behavior or parenting skills for Mr. Joneson was Julie Yalowitz. She was also the main witness for the State and guardian, Debra Hinkle and than Laura Scott were the caseworkers for Luella Joneson for the first 11 months of her care by Catholic Charities. No reports of inappropriate behavior occurred during this time. In fact there were many favorable reports made about Mr. Joneson. From Debra Hinkle's and Laura Scott's reports it indicates that Mr. Joneson brought many age appropriate activities and provided proper nurturing and parenting skills. In Vol 2 of 9 Te 156B father kisses and hugs, 157b happy to see Luella, 158B dad spread a blanket on floor for her to roam around on 160B brought an outfit for child, fed and burped Luella 162B father brought a baby walker 164B father brought many clothes also gum cleaner, pacifier baby food and formula and a baby book 165B father talked to Luella telling he missed her and loved her, father was appropriate during visit, 166B cleaned up spilled peas on floor and brought new Mickey Mouse outfit, 167B

took pictures of Luella as she sat on floor, 268B Luella paged through a baby book while father looked over her shoulder and father brushed Luella's hair, 169B father brought a new fisher price highchair , toddler bowl and cup, 179B Luella was given a doll for Christmas and a kiss when the visit ended.

Julie Linkon Yalowitz came on the case approximately one year after the case came into care. Many of her reports contradicted her testimony and showed appropriate parenting skills and nurturing. In(Vol 2 of 9, TE 171B father brought fisher price stroller and ball for Luella and played with both during visit, TE 176 Eugene and Luella drew pictures with crayola markers and built a house out of the mini-cereal boxes, Te 178 Luella needed a fresh diaper so Eugene changed her, played with tape recorder, TE 182 both caseworkers report Mr. Joneson was appropriate with the girls and made an effort to share his affection, TE 184 Father brought blocks and a bunny rabbit for Luella, TE 188 Luella was given a baby cookie , Eugene dipped the cookies in her juice to soften them up, played hide and seek. TE 190 Mr. J. picked Luella up and put her on his shoulders, Te 192 Eugene followed Luella around the to make sure she was safe, TE 196 Eugene greeted Luella with a big hug and got her a cup of water TE 214 Luella was baptized in father's church TE 216 Mr. J. brought Luella a Barbie jeep, In (Vol 7 of 9, R 249 B father talks to Luella saying things like I like you , I love you. In Interest of A.T. 555 NE 2d 409 it reads the first interpretation of unfitness must be based solely on parenting efforts or progress during the period

beginning with adjudication and ending 12 months thereafter. The second interpretation must be based upon parenting efforts or progress made during the entire period between adjudication and filing of the termination petition. Under this latter interpretation, the length of the period is not limited by the statute. The above list of examples certainly indicate reasonable efforts and progress in parenting skills.

The following list is based on these interpretations and is listing the examples of risk of harm or examples of unreasonable progress in parenting skills that Luella was subjected to during visitation argued by the state. In order of importance were: 1. A sharp metal knife that was left on a table in Luella's reach(Vol 3 of 6, R 17) In cross examination Julie Yalowitz who had originally testified to a metal knife was no longer sure if it was metal or plastic. She was later contradicted by another caseworker's testimony of the same knife. The evidence was that on at least one other occasion, that there was a plastic knife(Vol 5 of 6, R 203 ln 24- R 204 ln 1-2) The state eventually withdrew this statement(Vol 5 of 6, R 205 ln 19-20) 2. A plastic bag that Mr. Joneson had put over the head of his daughter to cut a whole out for a bib(Vol 3 of 6, R 19 ln 15-24-R 20 ln 1-29). This Mr. Joneson , the appellant, denied when testifying in court and confirmed that Julie had lied about this testimony also (Vol 5 of 6, R 202 ln 16-24-R 203 ln 1-18). In actuality it was only a conversation held between the appellant and caseworker about making a bib since the appellant had forgotten to bring one to the visit but he could make one out of a plastic bag. 3.

Luella picking up a twisty tie she found on the floor or garbage can('Vol 3 of 6, R 40 In 16-18) (No case report was found of this incident on record) 4 Luella attempting to look into the garbage can after the father threw trash away. This happened many times at visits In (Vol 2 of 9, TE 194 on 4/21/95 Julie writes Luella tried to play in the trash..Mr. Joneson took the items out of her hand but she kept picking out more trash... he finally moved her away from the trash can. AT TE 19 Luella began playing with the garbage can. Eugene told her to refrain from this activity but he did not get up and prevent her from continuing, Luella continued until she found something more interesting to do., TE 200 all at once Luella walked over to the trash can ,Emily went over to make sure she did not get into anything, and at TE 206 Luella continued to wander around the room , She went over to the trash can and pulled something out before Mr. J. said "no" 5. Mr. Joneson brought glitter to use in an art project when Luella was 3 years old. This was a project that Mr. Joneson would be directly supervising. 6. The father was not able to change Luella's diaper (In Vol 3 of 6, R 10, In 11-13) Again to the contrary, the visitation record proves that at practically all the visits Mr. Joneson had changed the diaper of his daughter Luella(Vol 9 of 9, TE 002-021) and (Vol 2 of 9, TE 141-222) There was one situation that occurred where Luella was screaming outrageously and father after considerable convincing by the caseworker was able to change her diaper (Vol 2 of 0, R 208) 7. Mr. Joneson fed Luella too much chocolate at a birthday party. More examples of these inappropriate

parenting skills for termination of parental rights are 1. Mr. Joneson brought the card game of hearts which was not age appropriate. 2. Luella being allowed to wander around the room to explore. This was also about the same time after Luella had just began walking. The caseworker Julie Yalowitz testified that Mr. Joneson did not pay attention to Luella and allowed her to roam around the room on her own. Caseworker and case aid reports are constantly full of evidence of Luella wandering or exploring the room with Mr. Joneson's supervision. In (Vol 2 of 9, TE 188 Eugene took pictures of Luella as she slowly walked around the room Te 190 Luella walked around the room smiling and saying Ma Ma Ma Ma TE 192 Luella began investigating all the toys around the room Eugene followed her around the room to make sure she was safe, TE 194 Luella walked around the room TE 196 Luella began walking around the room to check everything out. Eugene began blowing bubbles which stopped her in her tracks TE 206 Luella continued to wander around the room , She began playing with Mr. J's glasses, he put them on her as she continued to wander around the room, In actuality the above practice of Luella roaming around the room looking for activities to do was common occurrence for her .Every visit room was different and besides the toys the father had brought there were other toys that the agency had provided at the visit. It was also natural curiosity of the appellant's daughter to want to find or discover these new objects through her roaming. The caseworker's testified that Luella roamed around the room and Mr. Joneson was

oblivious as to what she was doing. The appellant wonders just how could a parent who is mentally sane with perception skills from normal, to superior(Vol 7 of 9, TE 151) sitting in a 9 by 12 room not be able to see what his toddler of age 3-4 is doing? Again the article written by Doctor Benjamin Spock indicates that the way to dal with separation anxiety would be to encourage independence and it is important to give the child some freedom around the house(SR 1 of 2, 1/8/99, C 171 Time to explore) This was brought up in the post trial motion to vacate the best interests judgement 3. The sometimes chaotic atmosphere at the visits. Julie Yalowitz testified that Mr. Joneson brought numerous amounts of presents and gifts that overwhelmed Luella at a birthday party . That is a problem when it overwhelms the child because they are not able to concentrate on one gift. It also instills the wrong values in the children that the only reason to see their father was to get presents(Vol 3 of 6, R 17 ln 16 -24 R 18 ln 10=18,21-24, R 19 ln 1) She presented no professional opinion or authorities that would back up her theory, In the Post trial motion to vacate for unfitness and best, interest Mr. Joneson does give his reasons for bringing many activities or gifts to visits which are supported by notable psychologists who have written many professional books and articles. In (Sr 1 of 2, 1/8/99 Circ Stamp C 166-167) their book for Children Under Stress (how to deal with every day stresses of childhood) Under the sub topic of using challenge as a way to deal with stress the book suggests encouraging the children to engage in as many different types of

activities as possible. Arrange a child' environment so novelty and new experiences are commonplace. This is exactly what the appellant was dong by bringing many different activities to a visit solely with the best interest of the children's development and truly aware that this had to be done one hour of the month every month. In Tod Harrison's letter of 10/27/95 he types although I have not seen Mr. Joneson with his children, I neither have seen the disorganization and chaos in him described in the sentences of the bonding assessment synopsis provided to me. I have not experienced him to be incapable of taking or giving nurturing or to have difficulty tolerating distress or unable to set limits(Vol 8 of 9, TE 115) Incidents of being messy and dirty clothes was brought up by caseworkers in their reports. In an other child development book under the topic of permitting it reads some of the behavior of the children, while unpleasant for parents, must be tolerated with good grace and without reproach . Permitting means accepting the harmless childishness of children and not expecting them to be miniature adults. Among the behaviors that you must expect and permit are messy floors while children are playing, dirty clothes after playing. Etc. Tolerating certain of these behaviors with composure in no way implies that you approve of them or expect them to continue over the long run (SR 1 of 6, 11/8/99, C 179) Again during trial , Julie did not state any authorities for her opinion. 4. Mention was also made of inappropriate comments made in front of his daughters to the caseworkers. These included 1. Asking Luella if the foster mother beat her when she was an

infant and not old enough to understand. Mr. Joneson had previously pointed out to case aids a bump on Luella' head. This statement was done in front of Kathy Pesek of the Parenting Assessment team while assessing the appellant's parenting skills. Instead of investigating this further as possible areas of abuse either at home or day care she considered it inappropriate behavior. 2. Telling the girl's the caseworker's don't want us to have any fun because we have to follow all their rules. The caseworkers took this statement as a challenge to their authority. Instead of having leniency depending on the situation. They were dictatorial on all issues. 3. Talking to the baby saying I'm frustrated too that we can't be together all the time, I know you do not want to leave me when a child that age is unable to have the emotions as we describe them as adults of frustration about the situation of wanting to leave or anything like that (Vol 3 of 6, R 120 In reply, babies are not supposed to be able to understand language at an early age I believe the case worker was more upset that the appellant was bonding with the idea that she missed me more than if Luella understood me. This was preventing her and the agencies interest of adoption from occurring.

In conclusion all of the above examples of reason for risk of harm for Luella Joneson and why progress for her return home was not made are really occurrences that happen every day in a normal family and considered nurturing. This goes for occasional arguments between adults, disagreements over what the rules are between parents, kids and outsiders and on how much freedom should be given a child and the limits

onto what is considered dangerous. In Interest of LLS 577 NE 2d 1387 a reviewing court will not substitute its judgement for that of the circuit court unless an abuse of discretion is shown i.e.... no reasonable man could adopt the trial court's position. In all of the above examples, te appellant believes he has proven clear and convincingly that he has met the minimum parenting standards set by the Department of Children and Family Services 89 Illinois administrative Code Ch. 111 Sec. 304.2 Sub chapter A. Minimum parenting standards means that a parent sees that the child is protected form severe physical, mental or emotional harm.

B. Evidence indicating that DCFS who was advocating adoption, had files that were missing documentation and only contained information that they wanted to present to the court was ignored and admonished. This included 1. Appeal letters written to the ombuds office for ACR case review, 2 a medical diagnosis by psychiatrist Doctor Childers. 3 requests for child therapist for children and records of phone evaluations fort therapy for the children 3. Other letters and documents from other branches of investigation of DCFS such as the neuropsychological report of Doctor Christopher Randolph of Northwestern University indicating no abnormalities) and 4. A report that dismissed an accusation of slapping an older sibling sister of Luella (Marilyn Frances) as not founded due to lack of evidence and later denial of daughter. This investigation was reviewed at the office at 1923 S. Indiana) and 5. Letters of communication with the children. 6. Also evidence in DCFS files indicating that

Mr. Joneson was not named as the person responsible for the chid abuse or neglect for Luella (SR 1 of 2, C 14) was ignored in his motion to vacate judgement filed May 7th, 1999) The fact that DCFS files were incomplete with regards to information that would benefit Mr. Joneson was brought up by Attorney Wilson, the defendant's attorney (Vol 5 of 6, 5 ln 13- 20 R 5 ln 12-15, ln 20- 24 R 7 ln 1 - 7) The state's attorney contradicted himself when he said not one time did he say it was the entire file (Vol 5 of 6, R 8 ln 12-18) But the court cautioned Miss Wilson for suggesting anything of that nature (Vol 5 of 6, R 9 ln 19-24) But Judge Mulhern did not do the same when the Public Guardian accused Mr. Joneson of possibly adding evidence to the file.

Some evidence that the state relied upon and that was used by DCFS throughout the case was unfounded, improperly admitted or evidenced by the record. This included 1. The use of a court order that was done so father would not be able to live with mother that did not exist, 2. A parenting assessment report used that was done especially with the criteria of selection being that as categorized as mentally ill. This parenting assessment primary witness and expert Kathy Pesek, had no prior training for evaluating the parenting capabilities of parents(Vol 4 of 6, R 98 ln 20- 24 ,R 99 ln 1-7) or evaluating emotionally disturbed adults.(Vol 4 of 6, R 93) and especially none substantial for evaluating fathers (The Thresh holds for Mothers Project (SR 1 of 2, C 84-88) the first assessment was mandated by Governor Edgar in January of 1995.(vol 6 of 9 ,TE 30

& Vol 4 of 6, R 97 ln 16-19) The appellants assessment was done in October of 1995 (Vol 6 of 9, TE 30,40) No court update assessments have been provided since to indicate that his parenting skills have changed(Vol 4 of 6, R 120)

Through her court testimony; the evaluator Kathy Pesek, indicated that Mr. Joneson did not even meet the minimum of parenting standards to take care of his children. Examples of these situations were 1. he allowed his children to play in the lake during a visit when the worker who was supervising the visit specifically asked that he not do this (Vol 4 of 6, R 53 ln 17-20) This contradicted the actual court testimony of the worker, Hector Rivera, who actually supervised the visit that day. In actuality all that happened was that the girls were starting to undress to go swimming and Mr. Joneson said they would have to stop because the worker did not want them to have fun that way (Vol 1 of 6, R 177 ln 9-24 R 179) 2. In anther incident she had reported he had admitted to the evaluator one incident where he was caring for a young child, a 2-3 year old and that he had struck a child. (Vol 4 of 6, R 581-10) and 3. She continued to report that he felt anger towards Emily, Marilyn and Luella and that he may lose patience dealing with them. No caseworker notes or recordings of the interview that contained this information was ever presented to the court to validate any of the testimonies mentioned above in 2 & 3. Mr. Joneson solidly denied these statements as evidenced in the Catholic Charities appeal letter written on 5/18/96 (SR 1 of 2 App. Stamp 3.5.99, C 155) (Vol 9 of 9, TE 99) in the appellant's

opinion this is leaving these testimonies as purely hear say. When submitting this evidence the state relied upon it for its final argument(Vol 1 of 1 11/17/09988, R 29) This was also brought up in the post trial motion for the best interests hearing(SR 1 of 2, circ. Stamp 1/8/99 C 62) Testimony of an expert witness must be supported by facts of data which have come to his knowledge through his personal perception by examination , factual information supported by evidence. Expert Federal Rules of Evidence Opinion Testimony; Rule 7;09 Factual Basis: Sources of Knowledge. It is grounds for reversal if an expert witness is permitted to express an opinion before he has the supporting facts if they are not supplied in the course of the trial. Gibson vs. Healy 248 NE 2d 771 3. The state also argued that Mr. Joneson had kicked the mother of Luella, Frances O'Neill out in the cold with her older sibling sister Emily who was than a baby. And that when Luella was born the parents were feeding her adult corn flakes. No intake reports of this actually occurring were presented by; the state as of yet . In fact the reports indicate something different. The appellant motioned the court to have these transcripts added to the record as s supplement on June 9th, 1999 but it was denied.

The appellant also believes that the parenting assessment team had a substantially large contract with Catholic Charities which made them bias towards adoption . The state of Illinois had recently reorganized its methods of running the agencies through DCFS during the summer of 1997. Instead of being paid a certain amount for each case that was in care they

reorganized to say that for each case they reduced they could pocket the profit. If the cases went over a certain amount they would have to pay the extra cost(SR 1 of 2, Jan. 8th, 1999 C 71-72) It was in Catholic Charities best Interest as a business to reduce as many cases as possible. As a business if the Thresh holds for Mothers was not successful through the parenting assessment team t o reduce the case loads of Catholic Charities there would be a loss of profit to CC. Therefore is was not in te best interest of the parenting assessment team to provide evaluations that saved families from adoption but rather proved the information to terminate their rights. Just as the records of the PAT report were accepted as the business rule exception, serious consideration must be taken into effect of the bias of these records due to the enormous profit for all that was involved. '

D. Caseworker reports were inaccurate and included only information that would not benefit Mr. Joneson were used as the agency was oriented towards adoption. Caseworkers constantly mentioned in their reports and therapy about a court order that Mr. Joneson the defendant was not to be with the mother of his children In(Vol 1 of 9 trial exhibit people's Group exhibit "A" in the Catholic Charities Traditional and specialized Foster Care Summary under Reason for referral it read. At the time of Luella's birth, Mr. Joneson was court ordered not be living with Frances O'Neill. He came to court stating that a new bay had been born and that Frances O' Neill was living with him. DCFS placed a call the Hotline on 2/8/094 alleging that Luella

was at risk of harm (This even tough they were repeatedly told by defendant that no court order of the type did exist or was ever presented as evidence. No evidence of this order has been found in the files of Luella or of the older sibling sisters) When the case for Luella came into care the trial court Judge Swzed asked why efforts were being made so swiftly for adoption and the caseworkers response was that it was because Luella had two older sibling sisters in the system and that their case was currently in terminations. In the same summary stated just previously under reason for referral it states that on 4/9/86, Emily was abandoned by her biological mother, France O'Neill, at the Catholic Charities office at 721 N. La Salle and had sated that the child's father , Eugene Joneson had kicked her our of the apartment and she had nowhere to go. This was the first time in 9 years where a story of that nature had surfaced. No intake case report has ever been found to indicate that this is true and court transcripts in testimony of that abandonment never indicated the above story as true. (Report of proceeding 11/10/1986 Judge Winiecki) (Vol 1 of 6, R 127) in fact this accusation was first brought up in case reviews and emphasized in therapy objectives for Catholic Charities beginning with the current case workers Julie Yalowitz and Christine Foley. As an example of the caseworker's manipulative nature or bias, a letter whose purpose was to find the mother of Luella Joneson was written as if the father was the one they were searching for. The agency knew all the time of where to locate the appellant or father but were using the reports as if he was unable to be found to

locate the mother. This is how they documented evidence though out this case to the detriment to the father (Vol 3 of 9, TE 103) Since we do not know the where about of the child's father, we are contacting all F. O'Neills in an attempt to locate the correct person.)

D Caseworkers were not trained in the basics of parenting skills but rather relied upon their natural abilities and their sociology degrees (oriented around the macro of social work instead of the individual) to determine how Luella Joneson's case should be handled. This included the evaluator of the parenting assessment team. During court testimony ,when the appellant's caseworker Julie Yalowitz was asked if she had any specified training for dealing with parenting issues with parents or parenting skills of parents and those interactions with children, she answered that she did not receive any specific training geared for that(Vol 3 of 6, R 70 ln 10-14 ,R 71 ln 3-121, R 72 ln 5-10) She testified that how she knew what appropriate parenting skills were at a visit was because of certain things that were instinctual from herself which she felt were appropriate parenting skills(Vol 3 of 6, R 72) Christine Foley also testified that she had no training in parenting skills in the best interest hearing for Emily and Marilyn. Luella Joneson's older sibling sisters(SR 1 of 2, 1/8/99 C 109) The parenting assessment primary witness and expert Kathy Pesek also had no prior training for evaluating the parenting capabilities of parents(Vol 4 of 6, R 96 ln 20-24, R 99 ln 1-7) Mr. Joneson's therapist, Tod Harrison unknowingly remarked about this evaluator's experience when he summarized that we do

not see any intervention as being sufficient to address the deficiencies in Mr. Joneson's parenting abilities(Vol 7 of 9, TE 105) In Tod 's testimony he state's that it is one of the central values of the field of mental health that nobody's is beyond help, and I couldn't understand how someone could be seen to have no hope. (Vol 5 of 6, R 109 ln7-10) In conclusion all of the important witnesses provided by the state and guardian that testified that the appellant had no parenting skills in fact had no specific training for providing services or diagnosing parenting skills beyond their own personal knowledge or instincts for themselves. If considered from this point of view most of their testimony could certainly be considered as hearsay, insubstantial evidence, or to have minimum weight. S.Ct Rule 236 All other circumstances of the making of the writing of record including the lack of personal knowledge by the maker, may be show to affect its weight, but shall not affect it' admissibility. E. Input at ACRS was bias and swayed toward the testimony and recommendations of the caseworker only and almost by verbatim represented the opinions of the evaluators of the parenting assessment team. This occurred and is shown in the trial exhibits record especially after the parenting assessment team had made the decision that nothing could be done to improve Mr. Joneson's parenting skills. In (Vol 4 of 6 , R 37 ln 3-5) Kathy Pesek, the head of the team confirms why when she testifies we are a service for the DCFS caseworkers when they are extremely confused about what to do with a family where mental illness is an issue. This again was done to support their position of

adoption.

F. Caseworkers Services and help provided to father was non- existent unless father was to determine the services needed and than request them. This thwarted the appellant father's efforts in the return of his children. There are countless examples in the record on how the caseworkers attempted to prevent the father from gaining reasonable progress in the return of his children. These are :1. The manipulating of the visiting schedule to fit their own schedules or purposes. There was no specific visiting day per month as there used to be before the caseworker Julie Yalowitz came on the case. Scheduling was done to benefit the caseworkers schedule. 2. New Services were offered to father to improve his parenting skills only after the adoption petition was passed. The letter written to the appellant on 12/ 1/96 was the first time in 10 years after having only one parenting class that Mr. Joneson was ever given a referral to parenting classes. But it was his responsibility to register, Many of these referrals did not have parenting classes or classes that Catholic Charities would accept (Vol 3 of 9, TE 1189) After the review process Mr. Joneson started his-first class with Mary and Tom Leo, which was not included on the list, called introductory to parenting skills. It was completed on may 2nd 1996 (Vol 8 of 9, C 90) The decision for the conditions of Luella's case being referred to legal screening was made on 10/18/95 (Vol 1 of 9 peopled's Group B 4 TE 28) The adoption petition was filed on 4/16/96. All this was done way before Mr. Joneson was given a chance to improve his parenting skills through

parenting classes or therapy with Luella. A letter protesting this was written and received on May 23rd 1996 (Vol 9 of 9, TE 86) 3. Informative information for evaluating reports that was passed on to outside agencies especially the parenting assessment team was incorrect and prevented an effective evaluation. This information included A. The court order not to be with the mother of Luella Joneson supposedly made before Luella was born B. testimony of the older girl's wanting to be adopted done in court when such testimony was never recorded. C. Reports of Numerous Parenting classes that were taken over many years which were confused with volunteer parental stress service 4. Bias ACR and visitation reports were made directly oriented towards an unsatisfactory conclusion and the goal of adoption In this case report of 10/96 it states that Luella's case will be referred to legal screening if recommended by the parenting assessment team and/ or progress of father with service plan is inadequate. (Vol 6 of 9, TE 154,178) A good example of the caseworkers need for unsatisfactory progress for adoption was in the caseworkers' ACR of 11/7/94-5/95 (Vol 5 of 0, TE 126, 127) On page 127 Jule Yalowitz states Mr. Joneson is to develop a plan for taking care of Luella if she is returned home and that he is given an unsatisfactory because he has not developed that care plan. But in contradiction in Julie's caseworker notes there is mention of a return home plan that Mr. Joneson discussed with her(Vol 2 of 9, Te 194) Also on page 126 in direct contradiction of pg 127 she states that progress for the return of Luella Joneson is

unsatisfactory because Mr. Joneson keeps on making return home plans for Luella Joneson in his counseling with his therapist Tod Harrison. In addition emphasis on a counseling goals list for Mr. Joneson with therapist Tod Harrison made on 7/31/95 by Catholic Charities specifically states at 4. To discuss what Mr. Joneson can do to have his children returned to him(Vol 8 of 9, TE 11) In spite of the caseworker Julie Yalowitz also wrote in her evaluation report of 4/95-10/95 that unsatisfactory progress in counseling was made because the focus of therapy for Mr. Joneson and his therapist Harrison was the return home of the children (Vol 6 of 9, TE 229) in (vol 3 of 6, R 6) Julie also testifies that she never referred Mr. J. to therapy sessions where he could go over issues about getting Luella returned to him. Another example of the caseworker manipulating for the goal of unsatisfactory progress would be the giving of an unsatisfactory AA attendance because attendance sheets were not turned on time and the case review was not indicated to be held up until a week before it occurred. Mr. Joneson's therapist wrote and complained about this also in his letter dated 11/6/96 (Vol 3 of 9, TE 15) He also testified that caseworkers did not cooperate with him, Tod Harrison, either by writing or phone calls when written or telephoned for recommendations or suggestions on what could be done to improve Mr. Joneson's parenting ability for the return of Mr. J's children (Vol 5 of 6, R 100 ln 17-21) In fact since July 31st, 1995 neither Julie Linkon or Chris Foley called Mr. Harrison over specific issues Mr. Joneson was having problems parenting with at visits (Vol 5 of 6,

R 127 ln 10-14) 5. Also the caseworkers started adoption proceedings for Luella Joneson barely before one year had passed. This was evidenced by their efforts to reduce visits to once a month in May of 1995 while the appellant was trying to petition for increased visits. The adjudication order was entered on 3/28/95 (Vol 1 of 2, 1/8/99 C 26-27) This reinforces the argument that unfair bias and prejudice existed against the appellant. No attempts were made by case workers to provide adequate services and it severely impacted the bonding between the appellant had his daughter as evidenced by the anxiety of separation when Luella screamed " No Daddy Gene" when her visits had been reduced to once a month for three months in August of 1995 until the workers than returned to every two weeks. State Statues do not allow the parents to file a petition for the return home of their children until after two years have elapsed. This act quickly terminate the appellant's parental rights was done by CC because the older sibling sister's of Luella Joneson were in terminations. It also presented the stage that there was no bonding between the appellant and his daughter 6. Therapy that was recommended by Amy Anson in her evaluation report of Mr. Joneson and his daughter Luella. In her evaluation report it states under dispositions and recommendations that given Mr. Joneson's continued desire to regain custody of Luella, dyadic therapy is strongly recommended. Until such dyadic treatment has been established, visitation should be supervised(Vol 4 of 9, TE 186) Although dyadic therapy was asked for it was denied due to the results of the parenting

assessment team report and the change of the return home plan to foster care placement. A letter which was given to Catholic Charities by Mr. Joneson requesting this therapy was never acknowledged and thus the request was ignored and not acted upon (Vol 8 of 9, TE 128) 6. Caseworkers also did not discuss with Mr. Joneson the reason for terminating volunteer parental stress services which he had been attending for eight years. (Vol 7 of 9, Te 210) Lynne Wilson who also attended the parental services with Mr. Joneson testified she did not see him belligerent or hostile at visits and that she saw Mr. Joneson consistently for 2 and ½ years(Vol 5 of 6, R 135 ln 19- R 136 ln 15) 7. Recommended counseling therapy for the older sibling sisters was canceled before the therapist was through. Catholic Charities had refused to transport the children to the office any longer. They had decided that Minna Greene, Mr. Joneson's therapist from 89-94 had seen enough and should not have to go through with this. Minna Greene did not want to stop (Vol 3 of 6, R 173 ln 13-22) She also believed that Mr. J. did not have adequate judgment and ability to empathize and relate to his children in order to have them returned at that time. This caused considerable bias against the appellant when Minna Greene, Mr. Joneson's advocate, testified in court that she would not recommend returning the children to Mr. Joneson. It was because CC would not allow her to complete her therapy with Mr. Joneson. It must also be remembered that Minna Greene did not see Luella Joneson in any therapy with her father but was used as a major witness because she had seen Mr. J.

with Luella's older sibling sisters. In Minna Greene's report, she mentions that the states attorney, a rep from CCCC, Eugene ' s lawyer and Eugene met and advised him to seek counseling with CCCC so that he could experience a fresh start(Vol 4 of 9, Te 212) But at trial it was argued Mr. J. switched counselors because she would not support his return home plan, thus again putting his interests before the children. 8.Only one parenting class had been offered by Catholic Charities to Mr. Joneson up until the day the adoption screening was passed for Luella Joneson. Catholic Charities had mistakenly or intentionally took the volunteer parental stress services Mr. Joneson had been taking for the last eight years as parenting classes. Hector Rivera had testified in court that Mr. Joneson had taken these classes all the way from 1969 to 1993 though Erie Family Health Center(Vol 1 of 6, R 137 ln 24- R 136 ln1 R 145 ln6-8, R 186 ln14-22, R 206 ln22-24-R 207 ln1, R 210 ln14-16) Mr. Joneson was referred to no one else for parenting classes(Vol 1 of 6, R 228 ln23-24, R 229 ln1-5) There was no one else but Hector Rivera who was to make referrals for parenting skills classes (Vol 1 of 6 R 234, ln25-24- R 235 ln1- 4) The basis for the referral to the parenting skills program was in order to develop or educate Mr. Joneson as to what would be proper behavior for disciplining his children, and proper nutrition and proper limitation setting for the children.(Vol 1 of 6, R 207 ln23-24-R208 ln1-8) Mr. Joneson had also told Hector Rivera that he was not attending parenting classes and it was contained in a report (Vol 1 of 6, R 103 ln 13-16) Even though Mr.

Joneson had testified in court that he had only one parenting class in ten years and the trial court decided in Mr. Joneson's favor for a finding of fitness, Catholic Charities would still offer no parenting classes to Mr. Joneson. Only until after adoption screening had been passed im May of 1995 did CC comply and this only because several complaint letters to the caseworkers, supervisor and administrative review had been written (Vol 3 of 9, Te 118, 119) Steve Dore, Mr. Joneson's lawyer, in his beginning statements at trial stated that the public defenders office would prove in the unfitness trial for Mr. Joneson for Luella's older sibling sisters that Catholic Charities never had appropriate service plan for Mr. Joneson (Vol 1 of 6, R 31) It was brought out at trial that 1. Only one parenting class was offered for Mr. Joneson for the entire period of time from 1985 to 1995 (Vol 3 of 9, Te 176) 2. That Hector Rivera had no idea what was involved in Mr. Joneson's parenting skills training because he never asked for a syllabus of the class and/or that he never contacted the people in charge of these classes 3.he just could not remember because he had lost his case notes and 4. He had never observed any of the parenting skills classes (Vol 1 of 6, R 207 ln 2-18 R 210 ln 6- 13, R 211 ln 14- 21, R 220 ln 17-21, R236 ln20-24,R 237 ln1-20, R 238 ln17-20) In affect he really had no idea of what Mr. Joneson was learning. In Mr. Joneson's post trial motion for Luella Joneson he indicates that in a letter from David Devalle from The Cook County Commissioner's Office it was stated that Mr. Devalle had talked to Eva Hernandez of the Erie Family Health Center. The same Eva Hernandez who

had worked at Erie Family Health Center during the same time Mr. Joneson attended parental stress services there. She indicated that parenting classes had never been taught at Erie Family Health center(SR 1 of 2, C 227) But Hector Rivera had testified again and again that Erie Family Health Center is where Mr. Joneson had taken his parenting classes (vol 1 of 6, R 137 l n 24 - R 138 ln 1, R 145 ln 5-8 , R 186 lb 14-22, R 206 ln 22-24- R 207 ln 1, R 210 ln 14-16) The conclusion drawn from all of this was that Mr. Joneson was not offered parenting classes because his caseworker Hector Rivera assumed that he was taking them all along and never investigated further to confirm that parenting classes were actually being offered,. In fact not until CC had finally come up with a parenting assessment that concluded that no amount of parenting classes would make an improvement in Mr. Joneson's parenting ability did Catholic Charities actually start to provide these services for the appellant As CC was able to provide all the parenting skills class references for attendance that Mr. Joneson could want, consequently the appellant than attended over 100 hours of classes (Vol 3 of 9, Te 30, 44,47,, 123 and SR 1 of 2, 1/8/99 C 176) But regardless the untrained Catholic Charities caseworkers could not see a difference in parenting skills anyway or were over influenced by the parenting assessment. The state relied upon the argument that l Mr. Joneson had been taking parenting classes since the older sibling sister's case came in and still was not able to make progress in parenting skills (Vol 2 of 6, R 236 ln 24 R 237 ln 1-8 R 235 ln 12-15) 9. DCFS had also canceled

case reviews for up to 3 years, from May of 1991 to October of 1984 (Vol 1 of 2, App. /Stamp 3/5/99 C101) For this period of time there was no feed back from Catholic Charities or improvement of services through DCFS. In the meantime Mr. Joneson provided his own parenting skills training through reading of library materials and parents's magazines and volunteer parental stress services. This was also confirmed by the case notes made by Minna Greene(Vol 5 of 9, TE 239 canceled 4/30/92, TE 243 canceled 4/13/93) and (Vol 4 of 9, TE 23 held a case review without notifying, TE 34 no case reviews for 2 years, TE 42 the 5th case review canceled TE 81 CC lax in informing about dates of case reviews over the years. , TE 106 no notification of case review that were held in October 1990 and April of 1991) 10. The workers never made the referral recommended by the Judge Mcgury on September 26th for an update on strictly the ability of Mr. Joneson to parent (Vol 2 of 6, R 122) and thus it cannot be found in the record. They relied upon the results of the parenting assessment team from Thresholds for Mothers for their decisions. The P.A.T. was a service for caseworkers when thy are extremely confused about what to do with a family when mental illness is and issue(Vol 4 of 6, R 37)

G. The trial Judge was bias and unaware of the facts of the case with Mr. Joneson beginning from the withdrawal of the public defender's office to represent him the final reading of the unfitness judgement and the following post-trial motions. She had assumed that Mr. Joneson was unable to get along with all of his attorneys

due to his personality disorder. She did not consider that the public defender's office withdrawal was due to 1. Transfer of public attorney to another calender 2. To department policy of terminating representation of a defendant once a case had been lost on the appellate level and the defendant represented himself on the supreme court level and that differences with his current bar attorney were due to the length of time she was allowing the bar attorney to prepare fore the defense of the defendant's case. During the unfitness trial when this issue that DCFS files were incomplete with regards to information that would benefit Mr. Joneson was brought up by Attorney Wilson, defendants's attorney, the court admonished her for suggesting anything of the nature. But Judge Mulhern did not do the same when the Public Guardian accused Mr. Joneson of possibly adding evidence to the file. During the unfitness reading there were many false conclusions and discrepancies in fact made by Judge Mulhern as if she had made a predetermined judgement and ruled on the facts of the case accordingly. Just currently, the defendant after trying for 9 months and five motions from the appellate court and trial court each, was finally able to get the trial exhibits for Defendant pro Se released by vacating an impounding order given by the trial court Judge Mulhern. The defendant believes that this was not a standard procedure on the trial court Judges part but a deterrent effort to exclude the records for the use of the appellant father (Vol 1 of 1, 2/5/99 C 1-5)

H. Father did make reasonable progress from the day the case came into care from the day that the petition for

adoption was passed. Despite no recommendations or referrals of services by Catholic Charities beyond those mediated through DCFS, the father appellant with the help of his therapist, Tod Harrison, through over 60 sessions of therapy (Vol 8 of 9, TE 113) has had all charges of mental illness dropped against his as well as 1. Managed to attend over 100 hours of parenting classes to improve his parenting skills (Vol 6 of 9, TE 90 -102). 2. Documented attendance of A.A. meetings for up to three years and is going on his 12th year of sobriety (Vol 8 of 9, 140-163, 173-216, 222-241) 3. Missed only a few visits in four years due to weather and colds 4. Attended all court hearings, and Department of Children and Family Service Case Reviews and 5. Attended parental stress services. 6. The appellant was also able to get all three of his daughters baptized. Luella was baptized in the Broadway Methodist Church in January of 1997 (SR 1 of 2, C 236) where the appellant father has been a member for over 5 years and participates in Sunday school services for young children as well as an active church member 7. Father also belongs to a single parent group which provides all kinds of activities for his children should they return home (SR 1 of 2 C 241) 8. The appellant father also has a stable income that will provide for the children, being close to 20,000 per year for the last several years(Vol 3 of 9, 48-58) 9. The appellant father is a volunteer at Loyola Medical University here he keeps company with severely injured or sick young children in need of care in order to cheer their spirits. This has been witnessed and confirmed as satisfactory by not only his current therapist

but by the supervisor of the volunteer office for Loyola (Sr 2 of 2,1/8/99, C 279)

The reasons for unsatisfactory progress for return home of Luella Joneson were 1. For therapy Mr. Joneson was not making progress in therapy because he did not cooperate with the case workers in allowing to have his children adopted. Mr. Joneson's therapist Tod Harrison had written Julie Yalowitz many times and asked for feed back in order for Mr. Joneson to satisfy her on how to obtain the return of the children. Mrs. Yalowitz never returned a phone call or wrote a letter in response. Tod Harrison testified to this in court (Vol 5 of 6, R 127 ln10-14 R 128 ln16-22) and it was brought up in several of his letters. (Vol 8 of 9, Te 68-69, 70-72) 2. For AA attendance he did not have all the records documented for presentation on the day of the case review (The proper number of days of attendance per week) Sometimes barely a week was given before the appellant was notified of a case review. 3 Visits were considered unsatisfactory because Mr. Joneson would not listen to all of the caseworker directives and wanted to have a visit according to how he structured it and brought many age inappropriate gifts. Examples of these gifts included 1.flash cards when Luella was not old enough to read (Vol 3 of 6, R 45 ln 10-15, 2. Bringing a deck of cards to play with Luella when she was only 1 ½ years old(Vol 3 of 6, R 25 ln12-R 26 1-2) he attempted to make a picture with Luella using glitter (Vol 3 of 6, TE 80 ln 14-17) No mention was ever made of the countless toys that Mr. J. had brought from Parents Child Development toys that were age appropriate (Vol

1 of 2, 1/8/99 C 162-165) motion to vacate denied, (Vol 5 of 6, R 168 ln8-12) or that none of the toys he brought had small parts (Vol 3 of 6, 146 ln20-24). But numerous examples were listed in the visiting record which was brought up earlier in this brief 4. Mr. Joneson was also not able to meet Luella's needs because he wan not able to get her involved in activities like coloring or building blocks, rather he allowed her to roam around the room and explore(Vol 3 of 6, R 50 ln 5-15) 4. Mr. Joneson was asked to leave his volunteer parental stress group because he was reading papers and taking notes in class while others were talking and he was in conflict with another group coordinator because of conversation content(Vol 3 of 9, Te 114) Lynne Wilson testified that she had never seen Mr. Joneson belligerent or hostile in the 2&1/2 years she attended parental stress (Vol 5 of 6, R 135 ln 19- R 136 ln3 ,R 139 ln 11- 18) 5. No matter what Mr. Joneson, , the appellant did for the return of his children it would be unsatisfactory for the caseworkers. The caseworkers were intent on getting their unsatisfactory; on all task sheets no matter how contradictory because it was required for adoption. Examples of this are contained in the ACR case Review for 11/7/94- 5/95 On one page it states that the C worker will aid father in developing an appropriate care plan for Luella if requested to do so, and father will develop an appropriate care plan if she is returned home (Vol 6 of 9, TE 97, 101) Father was also to do the same thing in therapy with Tod Harrison in individual therapy as agreed upon in the letter sent by CC on what Mr. Joneson can do to have his children

returned to him (Vol 8 of 9, TE 64 at 4) In the case review evaluation Mr. Joneson was given an unsatisfactory progress with regards to this issue because he was discussing day care arrangements with Tod Harrison (Vol 6 of 9, R 134 bottom of page) This was a no win situation no mater what Mr. Joneson did.

Several due process violations occurred which could result in a retrial or a reversal 1. A continuation should have been allowed for Attorney Wilson to further investigate this case, especially due to the enormous amount of information that had to be sifted through because of relevant information that was available from older sister's from being in care at the same time. 2. A parenting assessment was used as the basis for terminating parental rights even though it was represented as a tool to indicate areas for improvement of parenting skills so a parent might get their children back and expressively stated that they do not make decisions about custody (Vol 1 of 2, C 85) It was fraudulently represented as such but was actually used to provide opinions in court as to why Mr. Joneson should not get his children back. This should be considered as a fraudulent business practice as the records were entered as business records. C. Improper Evidence and here say statements. (Indicated the striking of a two year old, the feeding of adult cornflakes to an infant and a court order that has never been produced as evidence that the father was not to be residing with the mother of Luella Joneson) were used. Also improper argument (not born with the ability to parent, Luella is not bonded to her father) and erroneous rulings (father failed to

accept his role in the abandonment of Luella when she was never abandoned were used. The parents had Luella at home so they could hide her from the agency) and judgements based on law and evidence such as not meeting the minimum parenting standards and no reasonable progress was made were incorrectly used and relied upon in final judgement(post trial motions indicating perjury on caseworkers part with regards to services offered and non-existing efforts to provide services were entirely ignored.) This in actuality indicated Mr. Joneson's efforts were thwarted by the caseworkers.

In conclusion, the father of Luella Joneson humbly pleads with the review court to acknowledge that the manifest weight of the evidence indicates that in fact Mr. Joneson did make reasonable progress in the return of his daughter Luella Joneson. That in fact the evidence produce to indicate his lack of parenting skills contained incidents that were not severely physically, mentally or emotionally harmful to his daughter. These incidents were of the nature that any of the most common man would accept as incidental. Also that the manifest with of the evidence indicated proper parenting skills. That reasonable progress was made for the return home of Luella Joneson because the conditions of why she came into care were remedied. These being 1. The father's mental health, 2 the father living with mother and her mental health and 3. The use of uncontroversial feeding methods. Also that the appellants unsatisfactory progress was due to the efforts of the Catholic Charities agency which was pro-adoption for budget reasons.

This resulted in the use of untrained caseworkers and evaluators who did not spend enough time with Mr. Joneson to get an accurate picture of his real parenting skills or to provide services and who were never trained in parenting skills. Thus in effect his efforts for the children were thwarted by the agency and caseworkers because their basic aim was for adoption because of financial gain. In all the years this case was in care , there was never any sever physical , mental emotional harm to Luella Joneson by the appellant and this should be considered as the father having passed the minimum parenting skills standard set by the state. The father therefore pleads with the court to find him fit to parent his daughter Luella Joneson.

It is not in the Best interests of Luella Joneson to be adopted. It was not clear and convincing that it was in Luella's best Interest to be adopted.

Several biases existed that could result in reversal or new trial.

A the trial court was bias and abused its discretion in not allowing a continuance for the Best interest Hearing. Especially since many of the witnesses motioned for were not available for the court upon the hearing date (SR 1 of 2, Appellate stamp 3/5/99 C 027-29) This included the appellant's pastor, Greg Dell ((SR 1 of 2, App stamp 3/5/99 C30) caseworker Julie Yalowitz, who had been on Luella Joneson's case since January of 1995, Amy Anson, child psychologist, (stated contact with father for Luella should be continued even if Luella was adopted (vol 4 of 9, TE 187) and family therapist, John Lietzau. The trial court essentially decided wether the witnesses were important or not. Other witnesses were denied in a motion for discovery on the same day (SR 1of 2,C27-31) In Supreme Court Rule 183 7 Motion to extend time for filing any pleading or doing any act that is required by rules to be done within a limited period is within sound discretion of the trial court;; however that discretion must be exercised judiciously, and trial court should not refuse a continuance when ends of justice clearly require it.

Motions to allow the appellant access to DCFS files was allowed but not given the time to reproduce . Thus virtually in affect the evidence was not available for trial

(SR 1 of 2, Jan. 8th 1999 C50).
On the day that the best Interest hearing was held Mr. Joneson, the appellant filed a motion to dismiss his attorney and his attorney filed a motion to be dismissed but Miss Wilson and the appellant both had asked for a continuance for the best interest hearing.(Vol 1 of 1, 11/17/98 R58-59) Mr. Joneson needed it because his witnesses could not show and since Alice was not representing him anymore to prepare for the trial. The court had indicated to Mr. Joneson that he had an opportunity to call or subpoena any witnesses for the hearing but Mr. Joneson had not even been appointed to represent himself on that day and his attorney Alice Wilson had done nothing except file a motion for withdrawal as the appellant's attorney. (Vol 1 of 1, 11/17/98, R65) Being ignorant of court procedure Mr. Joneson also thought this was the pretrial date (Vol 1 of 1, 11/17/98 R65). But the best interest hearing was held even though Mr. Joneson did not have all of his witnesses or evidence available., This included family therapist John Lietzau and pastor Greg Dell and CC files of case notes and visitation reports favorable to Mr. J. During the best interest trial it was brought up that Pastor Dell's letter that he could not attend was not included in motion to continue the best interest hearing by Judge Mulhern(Vol 1 of 1, R46 ln 20-23) She continued the trial with evidence of what the appellant thought would be testified to and did not grant a continuance for his testimony (Vol 1 of 1 R44 ln16-R45 ln1-11). Evidence such as the Catholic Charities record for Luella's case was also not available because

it had to be duplicated from Alice Wilson files (Vol 1 of 1, R 69 ln 2-11), Those records were only available from her as of that date. No time was given to obtain them. As a result Mr. Joneson was little prepared for the trial only having been pro SE appointed as of that day. Also Judge Mulhern explained that witnesses could be at the best interest hearing but they had to be called or a subpoena had to be sent. She would not allow enough time for this to be done either. (Vol 1 of 1, R 65 ln 5-21) Evidentiary error, namely the improper exclusion of evidence is an important ground for a new trial when the error was prejudicial. Ballweg v. City of Springfield 114 ILL2d 107 ln 132 NE2d 454 no litigant should be foreclosed of his right to a day in court merely because circumstances beyond his control impel his request for a continuance.

B. Catholic Charities did not consider any familial background such as nationality, race, religion or culture as important to Luella's best interest (Vol 1 of 1, R 04, R5 ln7-14,) This even though the VillaNuevas were of a different culture and the foster father of a different race. There did not seem like any kind of conflict in her mind that the foster parents were Catholic and that the birth father was Methodist.(Vol 1 of 1, R6) In court Christine Foley , Luella's caseworker testified the religious fact as an important factor to the Villa Nuevas (Vol 1 of 1, 11/17/98 R12 ln6-7) But she never talked to them about attending the Methodist church where Luella was baptized (Vol 7 of 9, TE 84 B) and she was uncertain on wether they involved Luella with going to church (Vol 1 of 1, R10 ln22-24_R11 ln1-12) In the

appellants decision the selection of the foster parents was definitely not done with the idea of placing Luella in an environment as close to her birth family culture, religious and ethnic background. The appellant believes by not making that effort the caseworkers have proved again that they were not doing what was in the best interest of Luella Joneson but what was in the best interest of the foster parents and the CC agency with regards to adoption. In Ill. Rev. Stat. 1979, ch. 40 par. 1519 as articulated in the Adoption Act " the court in entering an order of adoption shall, whenever possible, give custody through adoption to a petitioner or petitioners of the same religious belief as that of the child In Illinois Family Law 8-26 certain factors have developed pursuant to case law such as racial consideration, religious consideration, work patterns of parents and time availability for child and the name change of the child. Judge Mulhern also ruled in court that all the emphasis at visits by father indicating to Luella by conversation that Luella is the appellants birth daughter and the foster parents are the ones taking care of her was not relevant in determining her best interest (Vol 1 of 1 , R92 ln11-18) A contradiction of fact was given in the case reviews that were made every 6 months by Catholic Charities. Each and every one of them indicates under the placement checklist that Luella Joneson is placed in a home with the same ethnic, cultural and religious background. This is a self evident misrepresentation of the facts (Vol 7 of 9, TE 4, 47 84) In Family Law Quarterly, Volume XXV, Number 2, Summer 1991 Adoption across religious lines is further

discouraged by imposing an additional procedural requirement; if adoption is granted to a person of a religion different than that of the child, the court must recite for the record the facts that compel the decision also in re Santos 105 N.YS 2d 716 The appellant believes that this could be the reason for the misrepresentation of the facts.

C Trial court Judge would not permit any questioning with regards to the prospective adoptive parents parenting ability (Vol 1 of 1, 11/17/98 cir st. 1998 R16 ln3-8R17 ln1-7) Appellant believes that these could be used as the basis why it is not in the best interest of Luella not to be adopted and should have been allowed. This same type of information was used against the appellant as to why he was to be judged unfit as a parent. Evidentiary error, namely the improper admission or exclusion of evidence, is an important ground for a new trial when the error was prejudicial Ballweg v City of Springfield 499 NE.2d 1373

D The trial court abused its discretion during the post trial motion for the best interest hearing by refusing to hear any additional testimony or evidence of why it was in the best interest of Luella to vacate the termination order so she could be returned home to her father. Especially since the witness, John Lietzau was in court and represented substantial new evidence and the post trial motion contradicted most of the judgement statements made by the judge. (Vol 1 of 1, R122-123 ln1-3) Mr. Lietzau a child therapist would have testified to a misdiagnosis (Vol 1 of 1,R109 ln1-5) and that being a family interventionist he was qualified to testify

to the appellants skills with children that he had observed. (SR 2 of 2 1/8/99 C279)

E. The only witness used, Christine Foley, although she had witnessed visits was unfamiliar with the case background. Julie Yalowitz, Luella's caseworker for two years was unavailable for questioning. Chris Foley never discussed with the Villa Nuevas about attending the Methodist Church or going to church services with Luella and did not know if they involved Luella with going to church or if they provided any educational material with regards to religion for Luella. ((Vol 1 of 1 11/17/98 R10 ln 22-24,R12 ln11), This even though the religious factor is important in the Villanuevas life.

Also Christine Foley knew that Mr. and Mrs Villanueva worked but she could not tell how many hours per week that Luella stayed in the day care center.(Vol 1 of 1,11/17/98, R12 ln12-R13 ln2 This information can be obtained in the Catholic Charity files though, although not currently updated. It indicates that both parents work approximately 28-40 hours per week.(Vol 3 of 9, TE113) Luella's day care was also subsidized by DCFS. (Vol 1 of 1, R13ln3-4) For parents who want a child they do not seem to be available for her or financially stable enough so they could provide the bonding needed. These conditions certainly could explain the heightened anxiety experienced by Luella when she came to visits. It was because her stabilized home environment was not as secure as the agency represented it to be. Her foster parents were rarely available for comforting. Luella

would come to visits and talk to her father about her friends (Vol 1 of 1, 11/17/98 R14 ln13-16) But Chris Foley the caseworker could not associate this with being in contact with Luella's emotional needs or a bonding with his daughter.

F. New substantial evidence indicates Christine Foleys testimony is bias as she has perjured herself in representation of older sibling sisters. Christine foley has represented herself during court testimony as having completed a phone evaluation for the older sisters counseling with regards to adoption. She has also testified that the final results of this conference indicated no further counseling was needed. First this was done at Dupage County mental Health (Vol 2 of 6, R 172 ln16-23) Than she testified this was done at Family Services Southwest (SR 1 of 2, app stamp 3/5/99). Several Letters have been written to her supervisor asking for the records of this evaluation. New substantial information recorded by David Devalle who worked for the cook county commissioners Office (now works for the investigations department of the juvenile court system) while in phone conversation with Lorene Epstein of Family Services Southwest indicates that the evaluations were never completed because Christine Foley never sent the paper work in to complete them. Thus she perjured herself in court with her testimony. During Luella Joneson's Best interest hearing she denied again not having completed this evaluation. Appellant believes that the weight of any testimony she gives should be viewed with the new substantial evidence in mind and that her sole objective

was to get the appellants children adopted to satisfy the agency goals and to maintain her job.

G. No one from the parenting assessment team was available for questioning at the best interests hearing because they had been made available at the unfitness hearing. Objections to evidence produced was overruled because the evidence had been presented earlier at the unfitness trial (Vol 1 of 1, R27 ln10-24). Two of the members were not available for the unfitness trial either..

IT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE THAT THE FATHER OF LUELLA JONESON DID NOT MAKE REASONABLE PROGRESS FOR HER RETURN HOME

A. Substantial evidence was produced that there would not be any risk of harm if Luella was returned home to Mr. Joneson. 1. During the fitness trial and best interest there was no clear and convincing compelling evidence produced indicating that any severe mental, emotional or physical harm would occur if Luella Joneson was returned home to her father. Testimony by Christine Foley was that adoption by the foster parents would be the better solution. But state law also reads that in re Adoption of Burton 356 NE2d 1283 at Hrusosky 351 NE 2d 386 "By someone's standards, it is always possible to find a better home for a child than the one Providence has bestowed " The record is complete with testimony from the

caseworkers that they were not worried about Mr. Joneson being harmful or violent to them or Luella. (Vol 3 of 6, R129 ln10-13, R130 ln20-24.,R131 ln1-6,) Even Luella's attorneys did not feel that there was enough damage or that Luella's safety was at risk at to discontinue visitation (Vol 3 of 6, R139 ln18-24) Father completed mental illness therapy and the therapist, Tod Harrison indicated that he could see no reason why Mr. Joneson could not adequately parent and that he did not see him to be dangerous(Vol 5 of 6 R98) or heard him being dangerous by report The same conclusion was reached by the most current psychiatric done by Doctor Childers of Community Counseling Center and psychological done by Doctor Marty Blackman Father also provided new substantial evidence from his new family therapist, John Lietzau, that he was able to relate to children after several observations of the appellant at Loyola University as a volunteer in the pediatrics department for severely injured or sick children.. (He was denied the chance to observe Luella after the unfitness trial and before the best interest hearing because the caseworkers felt it was too late in the case to introduce someone else.) John Lietzau was also not allowed to testify in the best interests hearing because Judge Mulhern would not allow a continuance for the Best Interest Hearing 2. The father or appellant has not resided with the mother of the children as requested by the Catholic Charities service plan as of 11/7/94. 3. The father has attended over 100 hours of parenting skills classes even though they were only offered after adoption screening had

been passed(Vol 2 of 9, TE37-41). 4. The father also attended his AA meetings and parenting skills classes to prepare himself for the return home of his daughter Luella.

B. Luella affectionately referred to her father as "Daddy Gene" Visitation anxiety for Luella Joneson with screams of " no daddy Gene" were directly related to missed visitation appointments. Julie Yalowitz testified in court that these extreme reactions began in July of 1995 and continued throughout that summer) (vol 3 of 6, R52) Careful research has indicated that visits had been cut back to once a month for Luella during that period of time who had been seeing her father weekly up until this point in time. (Vol 2 of 9, TE191 4/7, TE193 4/21/95, TE195 4/28 TE 197 7/7/95, TE199 8/18/95) Ironically there was also an incident in the case aid notes that tells a story of being lost for 1&1/2 hours on 4/12/95. This certainly could have also raised the anxiety level about Luella going to visits in the future. (Vol 3 of 6, R147).

Mr. Joneson's attorney Preston Jones had motioned the court to return visits back to weekly on 5/16/95 (Vol 1 of 2, 9/25/98 Court Cert. C39-40 On June 21,1995 Judge Szwed ordered and granted in part the return of visits every other week (Vol 1 of 2, 9/25/98 C42). On November 9th, 1995 actual visits were changed to twice a month. Coincidentally visitation anxiety continued throughout the summer because Julie Yalowitz, the caseworker would not and did not comply with the court order of every two weeks. In fact the visit remained at approximately once

a month all summer long until Yalowitz returned them to at least twice a month. In her caseworker report plans it reads Since August 1995, she has been very upset coming to visits, She begins to cry, kick and scream. Due to her reactions, her foster parents now accompany her in the car for visits.(Vol 5 of 9, TE102-103) Mr. Joneson wrote a letter to Julie Yalowitz's supervisor (Pam Palmentera) complaining that it has taken over 2 months for Julie to realize that the court order was for every 2 weeks and not for twice a month. (Vol 3 of 9, TE118) In court Julie denys she had any problem in determining the number of visits (Vol 3 of 6 , R140 ln12-14) Julie's supervisor also responded with a letter giving Mr. Joneson two visits per month in spite of the court order of every two weeks (Vol 3 of 9, Te121) The appellant Mr. Joneson also wrote a letter to Catholic Charities about June of 96 indicating that CC was not following the court order made by Judge Swzed and that unto that date they had missed at least 14 visits due to manipulating the visits to twice a month instead of every two weeks as by court order (Vol 3 of 9, TE25-26,). This was also brought up in the appeal letter written on May 23, 1996 to DCFS (Vol 3 of 9, TE67). Mr. Joneson asked for mediation with C.C. because Catholic Charities had constantly ignored the court order of visitation for Luella for every 2 weeks for the last 9 months (Vol 3 of 9, TE64.) (Also note the incomplete documenting of appellant's appeal letter for the file) The crying of "no Daddy Gene " began in 1996`(Vol 3 of 6,R52 ln13-22,R53ln20-24,R54 ln1-4)Again these anxiety attacks

were directly related to the actual mandatory cutting down of visits because of the terminations petition filed on June 17th and a court order that had been passed allowing visits for only once a month in sept.,((Vol 2 of 6, R128 ln22-24,R129ln1-7) & (Vol 1 of 2, 9/25/98 Com CERT. C144) Mr . Joneson , the appellant, testified in court at the unfitness hearing that he had missed quite a few visits with his daughter Luella due to scheduling problems of the caseworkers.(Vol 5 of 6, R162 ln9-24) and that he was not given an opportunity to make these visits up (Vol5 of 6, R163 ln12-18) The appellant testified that this is when the crying times occurred when Luella got older (Vol 5 of 6, R167 ln6-14) Catholic Charities could not relate any of these visiting events were Luella was especially upset as due to their scheduling sporadically and the cut down of visits. They interpreted as Luella did not want to be with her birth father but was bonded with her foster parents. Julie Yalowitz testified in the unfitness hearing that she observed Luella with her father, that she would caress her father, her father would hold her, she would go to him, hug him and things like that (Vol 3 of 6, R116 ln6-12). Christine Foley, one of Luella's caseworker testified that it's not that Luella only cries when she is in Mr. Joneson's presence, but that she cries when other individuals take her also. (Vol 4 of 6, R15) Also that she has never told her in her child language that she does not want to come or is uncomfortable at visits (Vol 1 of 1, 11/17/98 R89 ln22-24-90 ln1-4) No abuse , neglect had ever occurred at visits by appellant that Foley was aware of. (Vol 1 of

1 11/17/98 R93 ln4-6)

Father also believes that a large amount of stress was also due in large to the age of Luella Joneson. Doctor Benjamin Spock, a noted child therapist wrote in his article on Separation Anxiety Most babies experience a mild form of separation anxiety and continues up to 36 months. Separation anxiety brought on by a significant change in daily routine can strike at any time during childhood. Under Feeling the Fear it reads A toddler just like a baby may experience separation anxiety when the child starts a new day care program or her parents divorce. (SR 1 of 2,1/8/99 C171) This seems very much the same as with the cutting down of visitation and sporadic visits which Catholic Charities had done to Luella Joneson.

C Father supports visitation and communication with all his children. Appellant believes he is being thwarted by the agency's efforts and the foster parents cooperation with CC's suggestions. that prevent communication and bonding even to this very day (Vol 1 of 1 11/17/98 R11 ln13-17). . Letters written to Luella or foster parents were edited for content by the caseworkers.(SE 2 of 2, C272) Father believes in communication with foster parents for the best interests of his children. Throughout this case Catholic Charities has not supported any bonding with Luella Joneson and her father the appellant. Julie Yalowitz testified in the unfitness that she never had unsupervised visits because Julie felt uncomfortable with it (Vol 3 of 6 R122.ln9-R123 ln4) Visitations that were miss scheduled due to caseworker error was never made up. This included

over 14 visits. Gift giving as a show of father's love was looked upon as excessive and not the way to bond with the children. Even in Julie Yalowitz's case notes she had recommended that the foster parents not contact Mr. Joneson or reply to his letters sent. Letters were sent to the foster parents asking them to phone Mr. Joneson so he could talk to his daughter No calls were ever made (Vol. 3 of 9, TE 2-3) Even after Catholic Charities and/or the department of Children and Family Services stopped their services because the case had been terminated at the trial court level and the case was considered closed, The foster parents continued to provide no response to all inquiries about her health or well being. This even though the appellant had constantly encouraged the foster parents to have Luella call him (Vol 1 of 1, 11/17/98 R11 ln13-17). This even when letters were written directly to them asking for an up date upon Luella's well being without Luella knowing. I believe that this shows no concern for Luella's best interest not only now but in the future for her healthy development. Luella was never given a chance to have any "Good Byes with the appellant (Vol 1 of 1, 11/17/98 R18). The appellant to this day does not know how she has fared through the separation process as there was no explanation given or explained to him either by caseworkers or foster parents. In the bonding assessment done by Doctor Amy Anson from Michael Reese Medical hospital she recommends that if Luella should be adopted at some point in the future by the Villanueva family, it is recommended that she continue to have regular contact

with her biological father (Vol 7 of 9, TE198) The appellant believes both his daughter and he had a deep emotional and respectful bonding as parent and child that had developed over the years and that the uncooperativeness of the agencies and foster parents was cruel and unjust to his birth daughter Luella and definitely not in her best interest. The goal of adoption which included budgetary reasons for Catholic Charities (Vol 1 of 2, C71-72) and the foster parents desire to be the only parents to Luella Joneson seem to dominate the theme for adoption throughout this case.

D. Father Has offered a plan for relocation to Luella' neighborhood if need be for a eventual successful return home adjustment. Problems that would not be a factor if custody is regained by father would be switching schools (Vol 1 of 2, 11/17/98 R6 ln 19-R7 lm 12) , visitation with foster parents, or personal friends(Vol 1 of 2, R7) But if adoption is gained by foster parents and since they do not support communication with the birth parent Mr. Joneson, all communication would end. Christine Foley testified that it would be normal for a child to have difficulty adjusting in transition from one family to the next (Nol 1 of 1, R9 ln13-15) E. Luella's daily life routine would not be drastically changed. Even with two parents she has been in day care most of her life. (Vol. of 9, TE113) Both foster mother and father work practically 48 hours per week. Defendant would provide an in home sitter services which should be considered an improvement. Luella is spending a majority of her time in day care and this father believes that is not in her best

interest Christine Foley stated in court that the only reason for Luella not being returned home was because Mr. Joneson was found to be an unfit parent (Vol 1 of 1,, R97 ln6-24).

G. Father has full support for return of his daughter through his birth and adoptive mothers (Vol 1 of 2 C 181-183), church involvement (Vol 1 of 2, C223-225,236), A.A. sponsorship (Vol 1 of 2, C240)and a single parent group (Vol 1 of 2 C184) he attends occasionally

H Father supports the contact of Luella with her older sibling sisters and would allow overnight visits if the older children are not returned. (Something that is not currently done with the two separate foster families. Luella is not currently placed with her sisters because their foster parents were unable to care for another child at the time of Luella's placement.(Vol 7 of 9 Te 004)) The appellant is fighting for custody of all three daughters.

I The father has income and the ability to care for Luella Joneson if she is returned home. Therefore the father of Luella Joneson humbly pleads with the court to reverse the judgement for the termination of parental rights as the evidence is compelling that Luella Joneson should be returned home to her birth father and not that she should be adopted. That there is a bond that exists And although Catholic Charities did not consider the ethnic and religious background of Mr. Joneson as important for his daughter. The appellant believes that it is important for her healthy emotional and mental development. Also that there is a home for Luella with

income to provide for her and environment of people that would be in her best interest emotionally mentally and physically including two grandmothers, the church congregation of Mr. Joneson's faith, single parents groups, neighbors and friends. Also that stress created from the separation of the foster parents if it is severe could be alleviated by a gradual return home plan until Luella is adjusted to her new home environment and that visits and contact will always be allowed with Luella and her foster parents if it is the best for her mental emotional and physical health..